

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, September 4, 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 Garrett Johnson, 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 Matt Purfeerst, seconded by Jim Cihak, Approval of the 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 August 7, 2025

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

II. New Business

1. Variance/Ewert - Section 17, Wells Township

Mark Ewart, on behalf of landowner Southeast Shoreline French Lake Cooperative, have requested the following Variances:

- A 68-ft variance from the 120-ft lake setback to allow for a replacement storage shed to be located 52-ft from French Lake.
- A 12-ft variance from the 20-ft road setback to allow a replacement storage shed to be located 6-ft from a private road.

The property is described as: Lot 1, Block 1, SESFLC Addition, Wells Township, Rice County, Minnesota. PID#s 10.17.2.76.918 & 10.17.2.76.001. Property address: 5989 177th St W #18, 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 Mark Ewert. The property is located in Section 17 of Wells Township.

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

CONDITIONS OF APPROVAL – Ewert

1. The variance is to allow for a replacement 80-sqft shed to be located 52-ft from French Lake and 6-ft from a private roadway, subject to 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/land use 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 - Could the shed be moved back from the road and closer to the lake and still meet setbacks from the lake?

TM - No, even where it is located right now, they are overlapping setbacks.

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

ME - I am basically here because I want to replace a shed with the exact same footprint in the exact same location. And 2.5 months later we are finally going to have a discussion about replacing the shed.

JH - Are you aware of the 6 conditions?

ME - 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 - We have seen replacement sheds here before and there isn't a single spot on this lot that doesn't need a variance.

JH - Unfortunately, with some of these older lots that are close to the shore it is hard.

MP - The fact that it is the same size and in the same exact spot, I have no issue with it.

KE - I motion to approve.

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***
- *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: From your discussion pointing out that it is a replacement in the same location and the same size. And the setbacks overlap, so moving the shed one way or another wouldn't change much.

Motion made, seconded, and approved unanimously.

2. **Variance/Reiland (Anderson) - Section 29, Warsaw Township**

Matthew Reiland, on behalf of landowners Christy and Mary Anderson, has requested the following Variance:

- A 28-ft variance from the 100-ft Road Right of Way (ROW) setback to allow for an Accessory Dwelling Unit to be located on the parcel with an existing home located 72-ft from the ROW.

The property is described as: Part of the SE1/4 of the SW1/4, Section 29, Warsaw Township, Rice County, Minnesota. PID# 14.29.3.75.003. The property address is: 25896 Elmore Ave, Faribault, MN 55021. The property is Zoned A, Agricultural.

Motion by Garrett Johnson, seconded by Matt Purfeerst, to approve the Variance request with the following conditions and findings for Matthew Reiland, on behalf of landowners Christy and Mary Anderson. The property is located in Section 29 of Warsaw Township.

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

CONDITIONS OF APPROVAL – Reiland (Anderson)

1. The variance is to allow for an Accessory Dwelling Unit (ADU) to be added to a property with an existing home located 72-ft from the Road Right of Way of Elmore Ave, subject to 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. Variance shall be void if a building permit for the proposed ADU 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, Matthew Reiland (MR), to come forward to add comments or answer questions regarding the request.

MR - Essentially, we are just excited to get started on this new ADU. I don't know exactly how many years the existing house has been there, but it was built before the 100ft setback requirement. We are looking to get the 28ft variance.

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

MR - 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 feel with ADUs being so new we didn't want to grant variances right away. But this is a little bit of a special situation being that the house is preexisting and preexists the 100ft setback requirement. So, it is a different situation.

MP - Staff, why wasn't this grandfathered in if the house was constructed before the setbacks?

TM - The house itself is grandfathered, it's just to do an accessory dwelling we require everything be considered conforming on the property. So, they would either need to move the existing house back 28ft or be granted a variance to make it conform that way.

MP - You aren't going to move an old house back 28ft, to me this is a good variance request. It is a perfect request in my mind. They are trying to replace a temporary structure with a permanent one and this house has been there for a very long time. So, I see no problem with it.

KE - I think it would work the way they are wanting to do it.

GJ - I feel the same way as MP, in the sense that we want to protect the ADU and not give out variances across the board. But I do think this is why variances exist, for special situations like this. I motion to approve with the 5 conditions.

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:

- *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 an older existing house that predates the road setback**
- *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: It's an existing building that is not being moved, altered or changed at all, this is just for its existing location. And this house was listed as being constructed in 1951 which predates not only the setbacks but zoning in the rural areas completely.

Motion made, seconded, and approved unanimously.

3. **Variance/Tuchek - Section 7, Wells Township**

Thomas Tuchek has requested the following Variances:

- A 5-ft to 10-ft variance from the 10-ft side property line setback to allow for roof additions over decks, replacement of decks, and replacement of cabin roof and siding, on an existing cabin located 0-ft to 5-ft from the south side property line.
- A 5-ft variance from the 10-ft side property line setback to allow for roof additions over decks, replacement of decks, and replacement of cabin roof and siding, on an existing cabin located 5-ft from the north side property line.
- A 43-ft variance from the 75-ft lake setback to allow for roof additions over decks, replacement of decks, and replacement of cabin roof and siding, on an existing cabin located 32-ft from French Lake.

The property is described as: Part of Outlot 11, French Lake Park in Section 7, Wells Township, Rice County, Minnesota. PID# 10.07.3.01.051. The property address is: 6690 French Lake Trail, Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Garrett Johnson, seconded by Jim Cihak, to table the Variance request for Thomas Tuchek to the October 2, 2025, BOA Meeting and require an updated survey. The property is located in Section 7 of Wells Township.

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

Hearing Minutes:

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

MP - Was there an existing deck there?

TM - I believe there was a deck in the pictures there, but there wasn't a roof over it. And I am not sure of the exact size, hopefully the applicant can add a little bit to that.

MP - Are they over the impervious surface?

JH - It is a long lot.

TM - I do not have the number right in front of me, it is not a part of what they requested so we would have to make sure that it is not exceeding that.

GJ - The previous variance for the garage, I am assuming that's when the survey that shows the setbacks was done?

TM - Yes, that was a requirement on the garage permit at the time. We needed a survey identifying that distance out. You can see on the survey, the garage is listed as being 2.4ft from that south property line. And they identified the structure at the time, while it is not labeled what distance it is, it appears to be very close to the side property line.

GJ - Shouldn't that have triggered 2 variances for the whole lot?

TM - At the time the only request was the garage addition, so the cabin would have been nonconforming but would have been grandfathered in essentially where it was, presuming that it was all built legally at the time.

JH - So it would have been different if it was an attached garage?

TM - Yes, or if they had been proposing additions or modifications to the cabin at that time, it would have triggered another variance at that point. But again, the request at that point was just for a garage addition.

The BOA asked the applicant, Brian Hughes (BH), to come forward to add comments or answer questions regarding the request.

BH - I am here on behalf of Tom, he is in Europe. He was going to do the permitting; we were just there to do the work. So, I just assumed he had it done, my bad for not checking in on him.

GJ - Do you have any knowledge on the deck?

BH - The reason we were there originally was to remove the old deck on the back because the old rim joist on the house was gone. So, they weren't going to do this work until we ended up having to take it off to fix the rim joist. The deck didn't change size except we added a roof to it.

GJ - I suppose you don't have a lot of knowledge on his request, saying he is going to be 5ft away from each side property line?

BH - As far as I can tell from all the drawings is that the deck is touching the property line that is shown on the survey from when they did the garage in 2020.

JH - Okay.

KE - That was the corner of the house or the deck?

BH - The corner of the deck.

KE - And the deck that's on there now is the same size as the previous deck?

BH - Yes. The only thing that might have changed would be that footing otherwise the framing is the same.

MP - Does the structure over top have an overhang on it?

BH - The existing one originally did not, now it does have a roof with an overhang.

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

GJ - Do you know of any feedback or issues with the neighbors?

BH - As far as I know, the neighbors did not have a problem with it. They were over every day talking to us and I didn't hear anything bad from it.

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 a hard time approving this item without having full knowledge on how far its setback from the property line.

GJ - I just think that there is a big difference between what was requested and what is there.

JH - I almost feel like this is somewhat incomplete, I think it would be nice to have some more information. And on impervious surface even though it might not be close to 25%, but they are adding an overhang which adds impervious surface coverage to the property. I just feel that it is somewhat incomplete to be able to approve this request.

MP – This feels loosey-goosey, we don't know where the property line is at, and it is hard for me to approve something without knowing where the actual boundary is at. And maybe the neighbor doesn't care now, but if they sell that property, what's the next neighbor going to think if they have an overhang over their property?

JH - And if that certificate of survey was done in 2020, maybe they could reach out to that survey company and verify that was correct or maybe see if they could come back out and re-verify that this deck would not be encroaching over the property line. I think the biggest issue right now is not knowing if it is over or not.

MP - Staff, if we were to deny this variance request, would they be able to put the existing deck that was on there if they can prove the size? Would they have to eliminate the overhang? What would be the next steps for the owner?

TM - We would have to verify what was there for the deck structures and the property line would need to be verified. So, an updated survey would be required whether this is approved or denied.

JH - I think that continuing this item could be an option. It gives them a month to figure out more of the logistics so they can come back and have a more solidified application.

TM - You could certainly table this request, with requiring a survey be brought back. That wouldn't be unreasonable.

GJ - I agree with that.

JH - And have them show how far away it is from the side property line instead of having Staff try and figure that out. I think having that more complete to give to Staff would be more beneficial as well.

MP - At least that way we would know before we approve or deny it if they have to take everything down. It gives them opportunity to prove their case.

GJ - I agree that before denying it, we should at least give them a chance. Especially because what they turned in said it wasn't on the property line.

MP - Hopefully the landowner will be back.

TM - I did just want to add that even if you were moving forward with the zero lot line setback, we would not be able to permit anything over the line.

GJ - I motion to table this item to the October 2nd meeting, and require an updated survey.

JC - I second.

Motion made, seconded, and approved unanimously.

4. **Variance/Bruder - Section 8, Cannon City Township**

Jeremiah Bruder has requested the following Variance:

- A 38-ft variance from the 70-ft Road Right of Way (ROW) setback to allow for a shed addition to be located 32-ft from the ROW of 166th St E.

The property is described as: Part of the NE1/4 of the SW1/4, Section 8, Cannon City Township, Rice County, Minnesota. PID# 11.08.3.00.002. Property address is: 2343 166th St E, Faribault, MN 55021. The property is Zoned WS, Wild and Scenic.

Motion by Matt Purfeerst, seconded by Ken Engen, to approve the Variance request with the following conditions and findings for Jeremiah Bruder. The property is located in Section 8 of Cannon City Township.

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

CONDITIONS OF APPROVAL – Bruder

1. The variance is to allow for a 40-ft by 64-ft shed located 28-ft from the Road Right of Way (ROW), subject to compliance with all other Ordinance regulations.

2. Applicant submitted site plan/building plans shall be followed.
3. Variance shall be void if a permit(s) for the 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).

GJ - Sounds like the other shed will be removed?

TM - Yes, the other shed you saw will be removed.

The BOA asked the applicant, Jeramiah Bruder (JB), to come forward to add comments or answer questions regarding the request.

JB - Just looking at the topography of the property, there aren't many places that I can build and there is a swale on the backside of the shop. I am looking towards the road, that is the most logical and economical location to go.

JH - And you decided to make it a little bit larger than had originally anticipated?

JB - Yes, talking with the architect, for the amount of storage and the spacing it would require engineering it would have to go that wide just to design it for wind loading.

JH - Are you aware of the 4 conditions in front of you?

JB - 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 - It is a unique lot in the aspect that it is restricted by topography and the onsite septic.

GJ - I agree, obviously the lot makes it a bit difficult, but that is a massive addition going towards the road. It's got to be bigger than the shed that is there.

KE - I think it is bigger.

GJ - I know we have done things like that before, but it just seems a little different going that large. I also understand that there are different needs and the lot doesn't allow it to go in any other direction.

JH - I guess since they are attaching on to the existing shed it would be hard to move the existing further back.

GJ - I get it and I do think it's good to be using the existing shed as well.

JH - It is a large shed.

MP - It is a big addition, but like it's been stated, the lot restrictions are the biggest thing that factor into it.

GJ - It meets all the requirements for the findings of fact, it just seems a little excessive.

MP - I motion to approve with the 4 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 topography of the land, the swale in the back and the septic system***
- *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: This is a dead-end roadway that is very likely to never go through. It butts up to some nature conservatory property and the river.

Motion made, seconded, and approved unanimously.

5. **Variance/Kleese (Flocchini) - Section 28, Cannon City Township**

Roger Kleese, on behalf of landowner Adam Flocchini, has requested the following Variance:

- A 13-ft variance from the 70-ft Road Right of Way (ROW) setback to allow for a shed to be constructed 57-ft from the ROW of Cates Ave.

The property is described as: Part of the SE1/4 of the SW1/4, Section 28, Cannon City Township, Rice County, Minnesota. PID# 11.28.3.75.002. Property address is: 3451 197th St E, Faribault, MN 55021. The property is Zoned A, Agricultural.

Motion by Garrett Johnson, seconded by Matt Purfeerst, to approve the Variance request with the following conditions and findings for Roger Kleese, on behalf of landowner Adam Flocchini. The property is located in Section 28 of Cannon City Township.

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

CONDITIONS OF APPROVAL – Kleese (Flocchini)

1. The variance is to allow for a 40-ft by 60-ft shed to be located 57-ft from the Road Right of Way of Cates Ave, subject to compliance with all other Ordinance regulations.
2. Applicant submitted site plan/building plans shall be followed.
3. A septic system compliance inspection shall be completed and submitted to Rice County Environmental Services prior to issuance of a building permit. If the system is found to be not in compliance, a compliant system shall be required to be in place not later than 1-year from the variance approval.
4. Variance shall be void if a permit(s) for the 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).

MP - Is that a dead end road?

TM - Yes, it dead ends at a single house back there with some outbuildings.

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

RK - TM did a solid job of laying out where the building pad is already constructed. That was

constructed by the homeowner without knowledge of a variance potentially being required. It conforms to the general description of the zoning district. The building would be a 40' x 60' storage shed for, I believe, his toys, so I am told. Their access is off 197th St, so there wouldn't be any more traffic off of Cates Ave to the east. I think our maximum height there is 35ft, the shed will be 26ft in height so no interference with that.

JH - Are you aware of the 5 conditions?

RK - Yes I am.

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 - He does have a unique situation with the roadway.

KE - I don't think it is going to bother anybody, there is only the one neighbor down the road.

GJ - This one is similar to the last item but is over twice as far from the road. I motion to approve with the 5 conditions.

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:

- *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, takes access off 197th St and the shed is closest to a deadened roadway on the other side of the property***
- *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 no additions by staff.

Motion made, seconded, and approved unanimously.

6. **Variance/Kappelmann - Sections 3 & 4, Warsaw Township**

Jacob Gergen, on behalf of landowner Ken Kappelmann, has requested the following variances:

- A 49-ft variance from the 50-ft Road Right of Way (ROW) setback to allow for a replacement home to be attached to an existing garage located 1-ft from the ROW of County Road 12.
- A 60-ft variance from the 75-ft lake setback to allow for a replacement home to be located 15-ft from Cannon Lake.

The property is described as: Part of Government Lot 1 in Section 3 and Part of Government Lot 1 in Section 4, Warsaw Township, Rice County, Minnesota. PID# 14.03.2.25.002. Property address is 3990 Cannon Lake Trail, 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 Jacob Gergen, on behalf of landowner Ken Kappelmann. The property is located in Section 3 & 4 of Warsaw Township.

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

CONDITIONS OF APPROVAL – Kappelmann

1. The variance is to allow for a 34-ft by 62-ft house to be attached to an existing garage located 1-ft from the Road Right of Way and 15-ft from Cannon Lake, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. At least 100-ft of the lot's 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. Tree removal must be limited to the minimum amount necessary for the construction and maintenance of the new building.
5. A certificate of survey to verify that the as-built lowest floor elevation of the home is meeting the 982.8-ft elevation and that land around the building is meeting floodplain elevation requirements shall be submitted prior to occupancy of the home.
6. A septic system compliance inspection shall be completed and submitted to Rice County Environmental Services prior to issuance of a building permit. If the system is found to be not in compliance, a compliant system shall be required to be in place not later than 1-year from the variance approval.
7. Variance shall be void if a building permit for the proposed house is not obtained within one year of the variance approval.
8. 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).

GJ - The porch they added doesn't change the variance from 2024?

TM - Correct, it doesn't encroach on any of the setbacks, it's just 10ft longer.

GJ - So this is just to change the wording of the variance?

TM - It is a larger cabin structure than what was previously approved by 10ft.

The BOA asked the applicant, Ken Kappelmann (KK), to come forward to add comments or answer questions regarding the request.

KK - I think TM did a perfect job outlining it. I apologize for having to come back, when I was here previously, it said that we were building on the same footprint. We are still doing that; our measurements were wrong when we turned it in. What we turned in 34x52, the old footprint of the house was 34x62. So, we got an architect and a builder to build a 34x62 structure on paper and turned it in for our building permit and that is when this all came up. So again, it's the same footprint, we are not destroying anyone's view. If you remember from the last time I was here, the house will be two stories on part of it but we have Wells Lake on one side and Cannon Lake on the other side so the only thing we are doing is moving it so it's attached to the garage.

JH - Are you aware of the 8 conditions?

KK - Yes, absolutely.

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

Kay Wilcox - *New Prague* - Our family owns the cabin that is directly west from this property. We are excited to see this improvement to the neighborhood and we have no problem with that. I am not sure if this is the time to bring it up or not, but we are concerned with the proposed elevation, and we don't want to have excess water runoff. We already have water that comes in in the spring sometimes. That is our only concern. We don't want our property to be impacted by more water. I believe a friend of mine talked to TM and voiced that concern; I just want to make sure that you are cognizant of that concern as

you move forward. We just don't want to be impacted by excess water, thank you.

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

Discussion:

JH - I know it's a condition of this variance that the lowest floor elevation has to be raised up due to the floodplain. That is a requirement of a lot of homes being rebuilt in the floodplain area so something like this doesn't happen again. I don't know if staff wants to elaborate on that.

TM - When any flood plain structures are damaged more than 50% or proposed work is over 50% of their value, they are required to meet floodplain elevations. We can't issue a permit without requiring that. Part of that process is we require a Certificate of No Rise. That is a form that an engineer fills out based on looking at the floodplain. It says that the raising of the structure and the fill being used is not impacting the floodplain area. That doesn't mean that there won't be potential changes in water flow from that, but that is certainly something we try to look at as the building process goes forward. If need be, to keep water from changing where it is currently going, we can certainly add some small berming or something like that.

GJ - I think that the variance for the house and attaching it to the garage makes sense. As long as everyone is cognizant in the building process, it's not going to drastically change the watershed and the flood plain.

JH - And you would hate to see something like this happen again, flooding wise on a new home.

GJ - I can understand how you would be nervous if everything is starting to get raised except yours. I think that if everyone is cognizant in the building process to try and mitigate that, it should work out.

JH - We have seen this item before, it is a unique lot. This whole stretch on Cannon Lake Trail is unique in the aspect of size, constraints from both lakes and the road.

MP - And hopefully with raising elevation we will see less damage as years go on. I motion to approve with the 8 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, elevation is lower than the floodplain***
- *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: Most of these were part of your discussion but I want to point out the unusual lot shape really limits options there. The flood plain requirements, the existing garage is actually the closest part to the road and the lake. And again, mentioning that is a replacement structure of similar size.

Motion made, seconded, and approved unanimously.

III. Adjournment

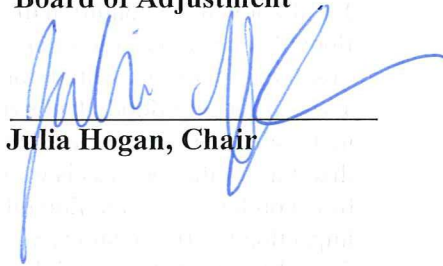
Hearing no other items before the BOA, a motion was made by GJ, second by KE, to adjourn the meeting at 6:51 pm. Motion carried 5-0.

Respectfully Submitted



**MacKenzie Klett
Office Support Specialist**

Board of Adjustment



Julia Hogan, Chair