Chisago County, MN

BOARD OF ADJUSTMENT AND APPEALS

Meeting Agenda

June 29, 2023 | 7:00 pm

Chisago County Government Center | 313 N. Main Street | Center City, MN 55012

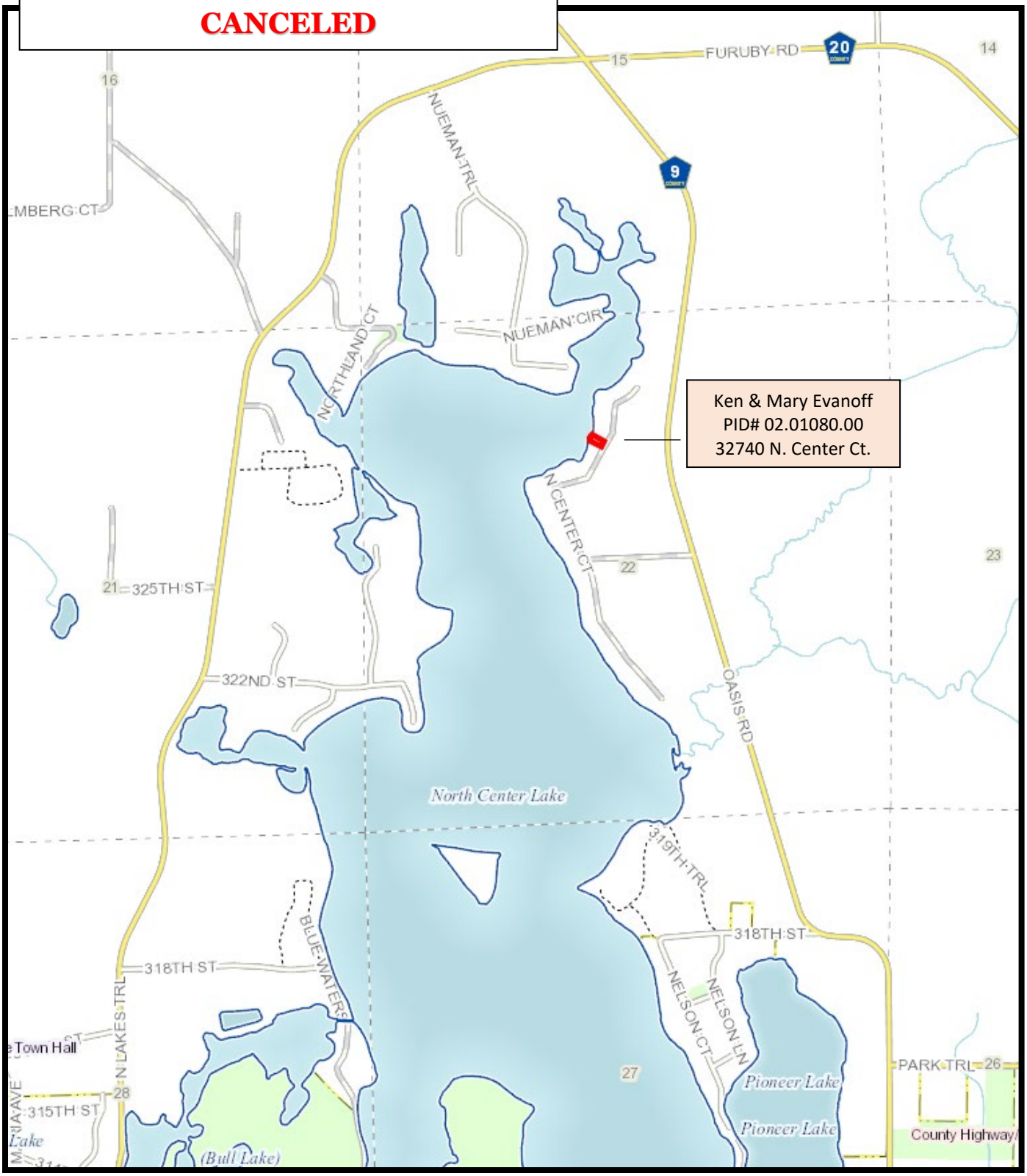
The Wednesday, June 28, 2023 tour has been canceled.

1. **Call to Order – Pledge of Allegiance**
2. **Roll Call: Determination of a Quorum**
3. **Approval of Agenda**
4. **Approval of Minutes**
   a. May 25, 2023
5. **Receive all Materials and Submittals into Record**
   Previously Distributed Materials:
   a. Meeting packet including staff reports with attachments for agenda item(s) 6a
6. **Public Hearings – New Applications**
   a. **Kenneth & Mary Evanoff** – Property owners Kenneth & Mary Evanoff are requesting Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21 in order to expand a legal non-conforming structure (deck) which is closer to the Ordinary High Water Level (OHWL) than required. The .21± acre subject site is located at 32740 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01080.00).
7. **Public Hearings – Continued Hearings**
   None
8. **Old Business**
9. **New Business**
10. **Miscellaneous**
11. **Adjourn Meeting**
    The next meeting is scheduled for Thursday, July 27, 2023 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time: ~~Wednesday, June 28, 2023 at 8:15 am~~

The June 28, 2023 tour has been CANCELED



CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
May 25, 2023

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, May 25, 2023 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; and, Nadia Broome, Support Specialist.

Chair Carlson called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was then taken. Board members present: Doug Greene, Gregg Carlson, John Sutcliffe, and Becky Strand. Absent: Chip Yeager (excused). A quorum was established with all members present except Yeager.

APPROVAL OF AGENDA – ***Motion*** to approve the agenda as presented by Becky Strand; second by John Sutcliffe. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – ***Motion*** to approve the April 27, 2023 meeting minutes as presented by John Sutcliffe; second by Doug Greene. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – ***Motion*** to receive all applications, submittals, reports, and other materials into the record by Becky Strand; second by Doug Greene. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included: a staff report with attachments. Copies of all correspondence and meeting materials were made available at the entrance to the hearing room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS
Danny Ketchel – Coordinator Gervais provided background information on Danny Ketchel's Variance request for property located at 12228 Lindo Trail in Chisago Lake Township (PID 02.00461.00), explaining that the property owner was proposing to expand a legal non-conforming structure by reconstructing the second story of the dwelling and expanding it further west toward the rear of the dwelling and replacing the two existing decks with one covered deck on the side and rear of the dwelling. Based on the site plan, the existing second story appeared to be 319 sf and the proposed expansion would result in 451 sf.

Gervais explained that the 5.34-acre subject site was zoned Agricultural (AG) District and located approximately 340' south of 374th Street / CR 74 on the west side of Lindo Trail. The site had been developed with a dwelling and two detached accessory structures, with the dwelling reported by the property owner to be more than 100 years old. Gervais stated that the property, although it met the minimum lot area, lot width and lot depth requirements for the AG District, was considered legal non-conforming due to the fact that it did not appear to have any road frontage. The application materials explained that the proposed project was an effort to restore the historic dwelling by reusing, preserving, and repurposing as much of the original materials as possible; the property owner was not

proposing to expand the existing dwelling any closer to the road; there would be no change to the existing foorprint of the dwelling; and, the proposed project would improve the aesthetics of the dwelling and, as a result, the neighborhood.

The Technical Review Committee met with property owner Danny Ketchel and wife Jennifer Sorenson on May 10, 2023. Ketchel and Sorenson confirmed that no bedrooms would be added as part of the proposed project; the last septic compliance inspection was completed in approximately 2019; and, the project included the replacement of a deck on the rear and side of the dwelling. The Chisago Lake Town Board considered the request on May 16, 2023 and recommended approval with no conditions. The state mandated 60-day review period was scheduled to expire on July 1, 2023.

Gervais commented that staff believed the request to be reasonable based on the property and existing dwelling constituting pre-existing development for which the property owner had no control, and the proposed dwelling expansion not exacerbating the road setback encroachment and meeting or exceeding all other required setbacks. Gervais added that staff supported the request for Variances with draft Findings of Fact and five conditions.

Chair Carlson invited the property owner to address the Board. Property owner Danny Ketchel and wife Jennifer Sorenson stepped forward.

Chair Carlson asked staff a clarifying question regarding the recommendation for a septic certification. Coordinator Gervais explained that septic certifications were valid for three years and the County Sanitarian was recommending that a certification be completed as a preventative measure. Carlson and Gervais discussed the Board's ability to add septic certification as a condition of approval if so desired. Becky Strand asked Ketchel for clarification about the size of the proposed deck. Ketchel explained that the deck would be a 6-foot wide "L-shaped" wrap around deck on the side and rear of the dwelling with a hip roof. Strand asked staff if the proposed deck would encroach on the required roadway setback. Gervais, utilizing the County's GIS Viewer, shared that the proposed deck appeared to be approximately 40' from the east property boundary (adjacent to roadway) and approximately 74' from the centerline of Lindo Trail. Gervais suggested that the Board could add a condition requiring that the new deck not be less than 73' to the centerline of Lindo Trail. Chair Carlson inquired if the property owner intended to replace the roof as part of the project. Ketchel confirmed that the roof would be replaced along with siding and windows.

Chair Carlson opened the public hearing and sought public comment. With no members of the audience wishing to speak, ***motion*** to close the public hearing by Becky Strand; second by Doug Greene. The **motion passed** and carried unanimously.

Motion by Becky Strand to adopt Resolution No. BOAA2023-0501, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances to Zoning Ordinance Section 4.03 (Non-Conforming Structures and Uses) allowing the expansion of a legal non-conforming structure on property located at 12228 Lindo Trail in Chisago Lake Township, with recommended Findings of Fact, staff's five recommended conditions, and the addition of conditions requiring a septic compliance inspection and requiring that the deck be no closer than 73' from the centerline of Lindo Trail; second by Doug Greene. The **motion passed** and carried unanimously.

Conditions:

1. This approval allows for the expansion of a legal non-conforming structure in the Agricultural (AG) District by allowing:
    a. The reconstruction and expansion of the second story; and,
    b. The reconstruction and expansion of the existing deck on the rear and side of the dwelling. The expansion includes the addition of a roof and second set of steps.
2. The expansion shall be constructed in general conformance with the application materials, including site plan and building plans, dated received May 1, 2023. Any significant deviation from the approved request and plans, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. The expansion shall not exacerbate the existing township road setback encroachment, meaning the structure shall not be located any closer to the east property boundary / township road as a result of this Variance.
4. <u>The deck shall not be located any closer than 73' to the centerline of Lindo Trail.</u>
5. <u>The property owner shall arrange for a septic compliance inspection prior to or in conjunction with the building permit application process.</u>
6. The property owner shall obtain a building permit prior to construction and, further, the dwelling expansion shall comply with all applicable codes and regulations.
7. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

PUBLIC HEARINGS – CONTINUED HEARINGS
None

OLD BUISNESS
None

NEW BUISNESS
None

MISCELLANEOUS
None

ADJOURN MEETING – ***Motion*** to adjourn by John Sutcliffe; second by Becky Strand. The **motion passed** and carried unanimously. With no further business the meeting was adjourned at 7:24 p.m.

_____ ATTEST: _____

Gregg Carlson
Chair

Beth Gervais
Land Services Coordinator

DRAFT

Staff Report

TO: Board of Adjustment and Appeals
FROM: Beth Gervais, Land Services Coordinator
SUBJECT: Variances to Allow Expansion of Legal Non-Conforming Structure
32740 N. Center Court, Chisago Lake Township
DATE: June 29, 2023

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider Variances allowing the expansion of a legal non-conforming structure (deck) in the Rural Residential II (RRII) District / Shoreland Management District.

SITE & APPLICATION INFORMATION

Applicant(s):	Kenneth & Mary Evanoff
Property Owner(s):	Kenneth & Mary Evanoff
Property Address:	32740 N. Center Court Chisago Lake Township
General Location:	Section 22, Township 34, Range 20
PID:	02.01080.00
Property Area:	.21 Acres
Current Zoning:	Rural Residential II (RRII) District / Shoreland Management District
Adjacent Zoning:	
North:	Rural Residential II (RRII) District / Shoreland Management District
South:	Rural Residential II (RRII) District / Shoreland Management District
East:	Rural Residential II (RRII) District / Shoreland Management District
West:	North Center Lake
Date Application Received:	May 30, 2023
Date Application Complete:	June 7, 2023
60-Day Review Period:	August 6, 2023

BACKGROUND

Property owners Kenneth & Mary Evanoff were granted Variances in July 2022 and April 2023 for their property located at 32740 N. Center Court in Chisago Lake Township. The 2022 Variances allowed for a 422.5 sf addition to connect the existing dwelling and detached garage and to exceed the maximum allowable amount of impervious surface coverage by .7% (for a total of 25.7%); and, the 2023 Variances allowed for the expansion of the existing basement and, subsequently, increasing the height of the dwelling. The property owners are now requesting Variance approval to allow the expansion of their non-conforming deck. The proposed deck, similar to the existing deck, will be closer to the OHWL than allowed by the Shoreland Management Ordinance and closer to the southerly property boundary than allowed by the Zoning Ordinance but will not encroach any closer than the existing deck. The proposed

deck is considered an expansion due to the fact that the height will be increased in conjunction with increasing the height of the dwelling.

SITE ANALYSIS

The subject site is .21 acres in size and located on the east side of North Center Lake in the Chi-Gak-Wa Shores subdivision. The property gently slopes with elevations ranging from 898' near the North Center Lake shoreline to 908' at the easterly property boundary (adjacent to township Right-of-Way). The site has been developed with a dwelling and detached garage. Based on the attached survey dated March 28, 2023, the dwelling is situated approximately 28' from OHWL, 4.5' from the south property boundary (side yard), approximately 35' from the north property boundary (side yard), and approximately 42' from township Right-of-Way. The exact age of the dwelling is unknown, but, based on when the property was platted, it's assumed that the dwelling pre-dates the County's adoption of land use controls and is considered a legal non-conforming structure. In addition to the 2022 and 2023 Variances detailed above, the property owners were granted a Variance in 2014 allowing the detached garage to be situated approximately 23' from the improved roadway (approximately 5' from the township Right-of-Way).

Chi-Gak-Wa Shores was platted in 1955 prior to the County's adoption of Zoning and Subdivision Ordinances. Given that the parcel is 70' wide with an area of less than 10,000 square feet, the parcel is considered substandard by today's standards. Surrounding properties are similarly sized and have been developed with seasonal cabins or year-round dwellings and related accessory structures.

PROPOSAL ANALYSIS

The attached written narrative explains that the property owners were previously granted Variances to increase the height of their dwelling and they're now requesting Variances in order to replace and increase the height of their deck. Based on the application materials, the existing deck appears to be:

- an irregularly shaped 20' wide x 8'-10' deep (approximately 202 sq ft) structure which appears to sit less than 12" off the ground;
- situated approximately 25' from the OHWL at the southerly end and approximately 18' from the OHWL at its northerly end; and
- situated approximately 2' from the southerly property boundary (side yard).

Based on the application materials, the proposed deck appears to be:

- 12' wide x 8' deep (96 sq ft);
- situated approximately 27' from the OHWL at the southerly end and approximately 25' from the OHWL at its northerly end; and
- Situated approximately 3' from the southerly property boundary (side yard).

It's important to note that the attached survey, dated March 28, 2023, does not show the existing or proposed decks nor does it provide setbacks; the approximate setbacks have been determined by staff using application materials provided by the property owners. However, it is clear that the size and setback encroachments for the proposed deck will decrease as a result of the current request.

Currently the sliding door on the west wall of the dwelling sits 42 3/8" above the ground and, following construction, the sliding door will sit approximately 74 ½" above the ground. The proposed deck will be situated at the same level as the sliding door, with the bottom of the deck being approximately 66 ½" – 68 ½" above the ground (measured at the wall of the structure).

The property owners have not yet acted on their previous 2022 and 2023 Variances but are satisfied with all previously approved Variances and conditions of approval. Given that the current Variance request is directly tied to the project for which Variances were granted in July 2022 and April 2023, staff is recommending, if the request is approved, that the requirement for acting on the previous Variances be extended to be in line with the current Variance request. The Board will see this included as a recommended condition of approval (see condition no. 7).

The table below provides a comparison of Rural Residential II (RRII) District / Shoreland Management District dimensional standards and corresponding information for the proposed Variances.

	RRII District / Shoreland Management District Standards	Proposed
Road Setback	40' to Township Right-of-Way	Approximately 60' to proposed deck
OHWL Setback	75' for Structures	Approximately 25' to proposed deck (closest point of deck to OHWL)
Side Yard Setback	10' for Dwelling + Attached Garage; 5' for Detached Non-Ag Accessory Structures	Approximately 3' to proposed deck
Impervious Surface Coverage	25%	25.7% (approved by 2022 Variance); Now reported to be 24.8%

The property owners have provided updated impervious surface calculation worksheets for existing conditions (approved by the Board on July 28, 2022) and proposed conditions. The worksheets indicate that the total amount of impervious surface was incorrectly calculated at 25.7% in 2022 and that the actual proposed impervious surface amount is 24.9%. During the June 14, 2023 Technical Review Committee meeting, staff learned that the property owners have an 8' x 10' structure which was not included on either of the submitted worksheets; therefore, staff recalculated the impervious surface coverage following the June 14th meeting. During the recalculation process, staff discovered that the property owners had based their total amount of impervious surface on an incorrect lot area square footage and, even with the inclusion of the new 8' x 10' structure, the total amount of impervious surface was within the allowable threshold at 24.8%. Staff has <u>not</u> included a recommended condition of approval which alters the previously approved impervious surface coverage of 25.7%; however, the Board can address this issue if deemed appropriate.

REVIEW PROCESS

The Technical Review Committee met with property owners Kenneth & Mary Evanoff on June 14, 2023. The group discussed the submitted impervious surface calculation worksheets and the fact that they did not include a new 8' x 10' structure; the property owner's intentions to maintain a pervious surface and/or use pervious materials underneath the proposed deck; and, the anticipated height of the proposed deck.

Due to a misunderstanding, the Chisago Lake Town Board did not receive application materials in time for its June 20, 2023 meeting; however, the Evanoffs attended the meeting and provided application materials directly to the Town Board. Staff spoke with Town Board Chair Sherry Stirling on June 22, 2023 and learned that the Town Board recommended approval of the request with no conditions. While the attached Township Form does not show the Town Board's recommendation, staff has made arrangements for Chair Stirling to sign the form and to receive a copy of the Town Board's June 20, 2023 meeting minutes when available.

The state mandated 60-day review period expires on August 6, 2023.

VARIANCE ANALYSIS

A Variance to the provisions of the Zoning Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the Ordinance imposes particular hardship or practical difficulties to the property owner in the use of the land. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. A Variance may be granted only in the event that the following circumstances exist. Staff has provided notes (shown in *italics*) for each of the circumstances for the Board's consideration.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control;

   The fact that the subject site was platted and the existing dwelling was likely constructed prior to the County's adoption of official land use controls creates a circumstance (pre-existing development) for which the property owner had no control. Further, the Board of Adjustment and Appeals granted Variances in 2014 allowing the construction of a detached accessory structure (garage) closer to the township Right-of-Way than allowed, in 2022 allowing the construction of an addition (connecting the dwelling and detached garage) closer to the south property boundary (side yard), OHWL, and township Right-of-Way than allowed, and in 2023 allowing expansion of the basement and overall height of the dwelling. The proposed deck will not exacerbate any existing or previously approved setback encroachments or previously approved impervious surface coverage.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

   Literal interpretation of the Zoning Ordinance would not deprive the property owners of rights commonly enjoyed by other Rural Residential II (RRII) District / Shoreland Management District properties. The Zoning Ordinance allows dwellings and accessory structures in the RRII District / Shoreland Management District and the subject site has been developed with both a dwelling and accessory structures (detached garage and deck). The property owners are choosing to expand the legal non-conforming deck by increasing the height and this can only be accomplished with approval of a Variance.

3. That the special conditions or circumstances do not result from the actions of the owner(s) or under previous owner(s) under the current law;

   Staff suggests that pre-existing development of the subject site and prior Variance approvals (2014, 2022 and 2023) are the special conditions / circumstances that should be considered by the Board. Platting of the subject site and subsequent construction of the existing dwelling were not results of either the current or previous property owner.

4. That granting the Variance requested will not result in allowing a use otherwise not permitted in the same district;

   Decks are a permitted accessory use in the Rural Residential II (RRII) District / Shoreland Management District; therefore, this would not be considered a use Variance.

5. The Variance requested is the minimum Variance which would alleviate the hardship;

The hardship for this particular request is pre-existing development, meaning the subject site was developed prior to the County adopting Zoning or Subdivision Ordinances. While the property owners are requesting a Variance in order to expand the non-conforming structure, this proposed expansion will not exacerbate any existing non-conforming setback encroachments. In fact, the property owners are proposing to significantly reduce the size of the deck, which will subsequently slightly reduce the setback encroachments.

6. The Variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone;

   Staff does not believe that the Variance, if approved, would be detrimental to the purposes or intent of the Zoning Ordinance or to other properties in the Rural Residential II (RRII) District / Shoreland Management District. The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. Being that the request will result in increasing the height and reducing the size of an existing structure, there's no reason to believe that the expansion will have any detrimental impact to the surrounding area.

7. Economic conditions or circumstances alone shall not be considered in the granting of a Variance request if a reasonable use of the property exists under the terms of this Ordinance; and

   The property owners did not cite economic conditions as a practical difficulty.

8. In the Flood Plain District, no Variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by State law.

   The subject site is partially located in a flood district; however, the location of both the existing deck and the proposed deck are outside of the flood district.

The Board is tasked with determining whether or not a "practical difficulty" exists prohibiting the property owner from using the land in a manner consistent with the Zoning Ordinance. Minnesota Statute 394.27 offers the following guidance:

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a ***reasonable*** *manner not permitted by an official control; the plight of the landowner is due to circumstances* ***unique*** *to the property not created by the landowner; and the variance, if granted, will not alter the* ***essential character*** *of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.*

As indicated above, “practical difficulties” is a legal standard that the County must apply when considering applications for Variances. It’s a three-factor test, including: reasonableness, uniqueness, and essential character. In order to constitute practical difficulties, all three factors of the test must be satisfied. Descriptions of the three factors are offered below for the Board’s consideration:

1. Reasonableness
   The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the Variance. For example, if the Variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness
   The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the Variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential Character
   The third factor is that the Variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the Variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

FINDINGS OF FACT

Zoning Ordinance Section 8.06 Variances, E. states that in considering all requests for a Variance, the Board of Adjustment and Appeals shall make certain Findings of Fact. Staff has provided proposed findings, shown in *italics* below, for the Board’s consideration.

Criteria #1 The proposed action will not impair an adequate supply of light and air to adjacent property;

Finding #1 *The County finds that the proposed expansion of a non-conforming structure (deck) will occur in such a manner that it will not be situated any closer to adjacent properties / property boundaries than the existing structure and will therefore have no impact on the supply of light or air to adjacent properties.*

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

Finding #2 *The proposed expansion relates to a deck only and will not increase the number of bedrooms or occupants; therefore, the County finds that the proposed action will not increase the amount of traffic generated at the subject site nor increase congestion on surrounding roadways.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

Finding #3 *The property owners will be required to obtain a building permit prior to construction of the proposed expansion, and it will, therefore, be constructed in compliance with all applicable codes. Being compliant with all applicable codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.*

Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;

Finding #4 *Being that the subject site is currently developed and the proposed expansion will not change how the property is being used, the County finds that there is no evidence to suggest that there will be any negative impact to surrounding properties.*

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;

Finding #5 *The proposed expansion of a non-conforming structure will not create additional bedrooms and will not increase the number of occupants in the dwelling or the need for facilities and services; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.*

Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and

Finding #6 *The County finds that the proposed expansion of a non-conforming structure will not have any negative fiscal impact on the County or school district.*

Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.

Finding #7 *The subject site is zoned Rural Residential II (RRII) District / Shoreland Management District. The existing deck is considered legal non-conforming due to setback encroachments created by development of the subject site prior to the County adopting official land use controls. The proposed expansion is contrary to the intent of applicable land use controls; however, the Zoning Ordinance allows for Variances to expand legal non-conforming uses when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action satisfies the three-factor test of uniqueness, reasonableness and essential character.*

STAFF RECOMMENDATION

It's staff's understanding that the proposed deck expansion is an expansion in height only and it will not exacerbate existing setback encroachments. Therefore, barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the Variances with recommended Findings of Fact (see above) and conditions (see below) and has prepared a resolution for the Board's consideration.

1. This approval allows the expansion of a non-conforming structure in the Rural Residential II (RRII) District / Shoreland Management District and grants the following Variances:
    a. A Variance to allow the replacement and expansion of a non-conforming deck by increasing the height. The existing deck appears to be less than 12" off the ground and the expanded deck will be placed at the same level as the main level sliding door on the west wall of the

dwelling (approximately 66 ½" – 74 ½" off the ground as measured at the west wall of the dwelling).

b. A Variance to allow the expanded deck to be situated closer to the Ordinary High Water Level (OHWL) than allowed by the Chisago County Shoreland Management Ordinance and closer to the southerly property boundary (side yard) than allowed by the Chisago County Zoning Ordinance. The approved deck shall be located no closer to the OHWL or southerly property boundary than the existing deck.

2. The approved deck shall be constructed in conformance with application materials dated received May 30, 2023 and kept on file with the Department of Environmental Services, including that the deck shall be no greater than 12' wide x 8' deep (96 sq ft). Any deviation from the approved request shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.
3. The ground underneath the deck shall remain pervious.
4. The County acknowledges that the following Variances were granted on April 27, 2023 and filed with the Chisago County Recorder as Document #T-29208 allowing the expansion of a legal non-conforming structure through expansion of the basement and overall increase in height of the dwelling:
    a. A Variance to allow the expansion of a legal non-conforming structure.
    b. A 47' Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the existing dwelling and proposed basement expansion to be situated 28' from the OHWL.
5. The County acknowledges that the following Variances were granted on July 28, 2022 and filed with the Chisago County Recorder as Document #A-661410 allowing for a 422.5 sf addition to connect the existing dwelling and detached garage:
    a. A 5.5' Variance to the side yard setback requirement allowing the proposed dwelling with attached garage to be situated 4.5' from the southerly property boundary;
    b. An approximate 25' Variance to the OHWL setback requirement allowing the proposed addition to be situated approximately 50' from the OHWL;
    c. An approximate 14' Variance to the township road setback requirement allowing the proposed addition to be situated approximately 26' from the township road Right-of-Way; and
    d. A .7% Variance to the maximum amount of impervious surface coverage allowing the subject site to have an impervious surface coverage of 25.7%.
6. The property owners shall comply with all conditions included in the July 28, 2022 Variance approval (Document #A-661410) and April 27, 2023 Variance approval (Document #T-29208) unless specifically noted otherwise by this approval.
7. The property owners shall obtain a building permit prior to construction and, further, the deck shall comply with all applicable codes and regulations except as otherwise permitted by this Variance.
8. This Variance shall be made use of within one year of the date of approval or it shall become null and void. Additionally, this approval grants an extension to the July 28, 2022 Variance and April 27, 2023 Variance approvals such that the 2022 and 2023 approvals must be made use of within one year of the date of this approval or they shall all become null and void.

OPTIONS

1. **Approve** the Variances based on the Findings of Fact and conditions as presented or amended.

2. **Deny** the Variances based on amended Findings of Fact or other contributing factors deemed appropriate. The following are suggested findings to assist in motion making. The Board is able to modify these findings and/or make other findings as necessary.
   a. The request for Variances, as presented, is not consistent with the Chisago County Zoning Ordinance and/or Shoreland Management Ordinance due to _____.
   b. The proposed Variances will have a negative impact to surrounding properties due to _____.
   c. The request for Variances, as presented, does not meet the threshold for "practical difficulty" as required by MN Statute 394.27 and Chisago County Zoning Ordinance Section 8.06 Variances, D. because of _____.

3. **Table** action to allow for further review and consideration. The current review period expires on August 6, 2023, allowing for further review and consideration at the Board's July 27, 2023 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2023-0601, a resolution approving Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21 in order to expand a legal non-conforming structure on property located at 32740 N. Center Court in Chisago Lake Township, as presented or amended.

If the Board chooses to deny the request for Variances, staff will prepare a revised resolution based on the Findings of Fact established by the Board.

ATTACHMENTS

1. Application materials:
   a. Application
   b. Written narrative
   c. Image of existing deck
   d. Site plan labeled Floor Plan Option C
   e. Site plan showing existing and proposed decks
   f. Survey dated March 28, 2023
   g. Impervious surface calculations (existing / previously approved, proposed, and staff corrections)
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2023-0601

CC: Kenneth & Mary Evanoff, property owners
County file

Chisago County Department of Environmental Services
Planning & Zoning Application

Permit # 23-792

Township Chisago Lakes Township **S/T/R** S/22 T/34 R/20 **PID#** 02.01080.00

Project Address 32740 No. Center Court (Chi Gak Wa Shores Lot 10)

Property Owner(s) Kenneth C. and Mary L. Evanoff

Mailing Address (If Different from Project Address) _____

Phone# [redacted] **Email** [redacted]

Applicant(s) Kenneth C & Mary L Evanoff

Mailing Address (If Different from Project Address) _____

Phone# _____ **Email** _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals	Planning Commission	
☒ Variance	☐ Conditional Use Permit (CUP)	☐ Preliminary Plat
☐ Administrative Appeal	☐ Interim Use Permit (IUP)	☐ Rezoning
	☐ Amendment to CUP or IUP	☐ Ordinance Amendment

Description of Request (A

We are seeking a Variance to replace a non-conforming deck.

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

☐ Full Legal Description ☐ Detailed Site Plan ☐ Detailed Written Narrative ☐ Plat Drawings

Kenneth Evanoff & Mary L Evanoff — 5-30-2023

Applicant Signature **Date of Application**

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Fees		Dates	
Base Fee	$ 500—	Application Received	5-30-23
Recording Fee	$ 46—	Application Complete	6-7-23
Plat Fee – No Road(s) / With Road(s)	$	60 / 120 Day Review Period	8-6-23
Septic Compliance Fee	$	Extended Review Period	
Wetland Fee	$		
TOTAL FEE	$ 546—		

Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Chisago Lakes Township **S/T/R** S/22 / T/34 R/20 **PID#** .02.0108.0.00

Project Address 32740 North Center Court (Chi Gak Wa Shores Lot 10)

Property Owner(s) Kenneth C & Mary L. Evanoff

Mailing Address (If Different from Project Address) _____

Phone# [redacted] **Email** [redacted]

Applicant(s) Kenneth C & Mary L Evanoff

Mailing Address (If Different from Project Address) _____

Phone# _____ **Email** _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals
- ☒ Variance
- ☐ Administrative Appeal

Planning Commission
- ☐ Conditional Use Permit (CUP)
- ☐ Interim Use Permit (IUP)
- ☐ Amendment to CUP or IUP
- ☐ Preliminary Plat
- ☐ Rezoning
- ☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary)

We are seeking a Variance to replace a non-conforming deck.

Kenneth C Evanoff & Mary L Evanoff
Applicant Signature

5-30-2023
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

****

Date of County Public Hearing JUNE 29, 2023 **Date of Township Presentation** JUNE 20, 2023

Township Action Taken (Township Use Only)

☐ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

_____

Signatures of Township Officials or Authorized Personnel

_____ _____ _____

_____ _____ _____

Date: May 31, 2023

From: Kenneth and Mary Evanoff
To: Chisago County Environmental Services
Re: Description of Variance Request

In honoring Variances granted to us in August of 2022 and May of 2023, and in order to begin construction on our property located at 32740 North Center Court, we are seeking a new Variance.

The new Variance is to replace a non conforming deck by lifting and reducing the size of the existing deck down to an 8'x12' structure.

Because the current Variance allows us to raise the existing structure this necessitates raising the existing deck.

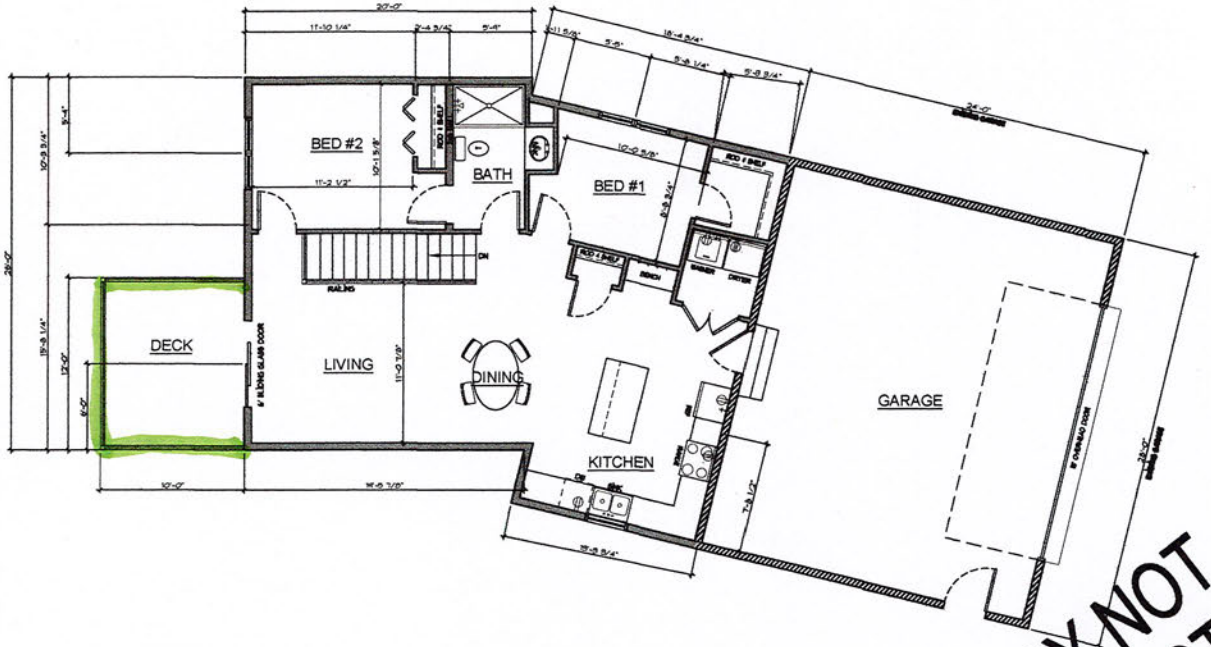
We will be following the requirements of all granted Variances and anticipate no negative impact on our neighbors

Please review the enclosed materials and contact us if there are any questions.

Sincerely,

Kenneth C. Evanoff
Mary L. Evanoff

Enclosed: Planning and Zoning Application
Description of Request
Other photo and related documents



PRELIMINARY NOT FOR CONSTRUCTION

FLOOR PLAN OPTION C

1/4" =1'-0"

REV. #	DATE	DESCRIPTION
1	00-00-23	

WINDOW / DOOR CALL OUT NUMBERS

W.	H.
FEET INCH	FEET INCH
5 0	4 0

WALL BRACE NOTE

NOTE:

A LINE INDICATES CS-SSP WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

B LINE INDICATES GP METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

C LINE INDICATES PFH METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

D LINE INDICATES ABS METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

NOTE:
ENTIRE HOUSE TO USE ZIG SPF STUD GRADE @ 16" O.C.
15/32" OSB FASTENED TO INTERMEDIATE SUPPORTS 6" ALL EDGES 12" IN THE FIELD

GENERAL NOTES:

1. SMOKE DETECTORS SHALL BE INSTALLED IN EACH SLEEPING ROOM AND CENTRALLY LOCATED IN THE HALLWAY GIVING ACCESS TO EACH SLEEPING AREA. EACH STORY OF THE DWELLING AND THE BASEMENT MUST HAVE A SMOKE DETECTOR.
2. ALL WINDOWS LOCATED IN HAZARDOUS LOCATIONS (I.E. MASTER BATH, LESS THAN 18" ABOVE FINISHED FLOOR OR WITHIN 18" OF A DOOR) ARE TO BE TEMPERED GLASS
3. STRUCTURAL INFORMATION:
   ALL STRUCTURAL INFORMATION SUCH AS HEADER/BEAM TYPE, LOCATIONS, SIZES, AND LOADING ARE TO BE PROVIDED BY THEIR RESPECTIVE SUPPLIERS
4. TRUSSES:
   TRUSS SUPPLIER IS TO PROVIDE TRUSS DRAWINGS THAT HAVE BEEN CERTIFIED BY A REGISTERED ENGINEER IN THE STATE OF THE PROJECTS LOCATION PRIOR TO INSTALLATION
5. VERIFY FLOOR FINISHES W/ OWNER
6. VERIFY ACTUAL GRADE CONDITIONS ON-SITE, STEP FOOTINGS AS REQUIRED TO MAINTAIN MINIMUM FROST DEPTH PER CODE
7. WINDOWS SPECIFIED ON PLANS VERIFY STYLE, TYPE AND BRAND OF WINDOW W/ OWNER
8. ALL OPENINGS TO EXTERIOR TO BE CAULKED AND FLASHED. FLASHING IS REQUIRED WHERE ALL ROOF AND VERTICAL SURFACES MEET, OR WHERE SIDING MATERIAL CHANGES.
9. PROVIDE DRIP FLASHING AT ALL TRIM AND SIDING CHANGES AS REQUIRED
10. PROVIDE ATTIC VENTILATION, NET FREE AREA TO BE EQUAL TO 1/300TH OF ATTIC AREA OR 1/300TH OF ATTIC AREA PROVIDED AT LEAST 50% IS IN UPPER PORTION OF ROOF WITH BALANCE IN SOFFIT.
11. ICE DAM PROTECTION TO BE APPLIED FROM THE EAVES TO A LINE 24" INSIDE THE EXTERIOR WALL WITH ALL LAPS CEMENTED TOGETHER
12. INSTALL 7/8" "OSB" SHEATHING BEHIND ALL SHAKE AND STONE LOCATIONS (VERIFY)

KJ Design
Custom Home Design
Minnesota 651-243-5229
Wisconsin 715-671-0202
Kenjohnsondesign.com

GENERAL NOTE:
EVERY EFFORT HAS BEEN MADE TO ENSURE THESE PLANS ARE ACCURATE AND COMPLETE. HOWEVER, THEY HAVE NOT BEEN REVIEWED BY A REGISTERED ARCHITECT OR ENGINEER, AND NO WARRANTIES ARE EXPRESSED OR IMPLIED. THEY ARE INTENDED AS A GUIDE FOR PERSONS WHO ARE KNOWLEDGEABLE ABOUT CONSTRUCTION PRACTICES. IT IS THE RESPONSIBILITY OF THE BUILDER/OWNER OR USERS OF THESE PLANS TO VERIFY ALL DIMENSIONS, CONSTRUCTION METHODS, AND SPECIFICATIONS AND ARE RESPONSIBLE FOR THE SAME. ALL APPLICABLE CODES, FRAMING AND BUILDING PRACTICES APPLY.

EVANOFF RESIDENCE

Plan Number: 23-1-063

Square Foot
Lower: XXX SF
Main: XXX SF
Upper: XXX SF
Bonus: XXX SF
Finished: XXX SF

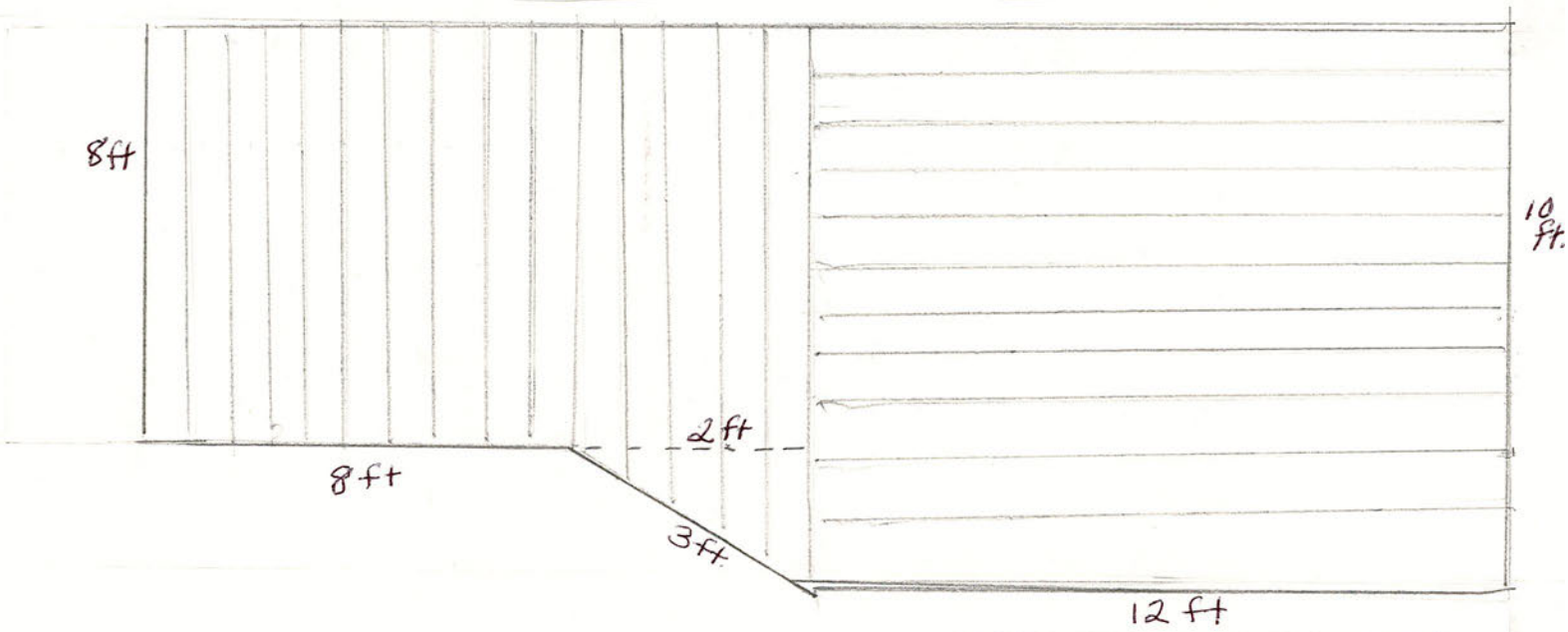
Owner: KEN & MARY EVANOFF

Date: 04/05/2023
Rev.

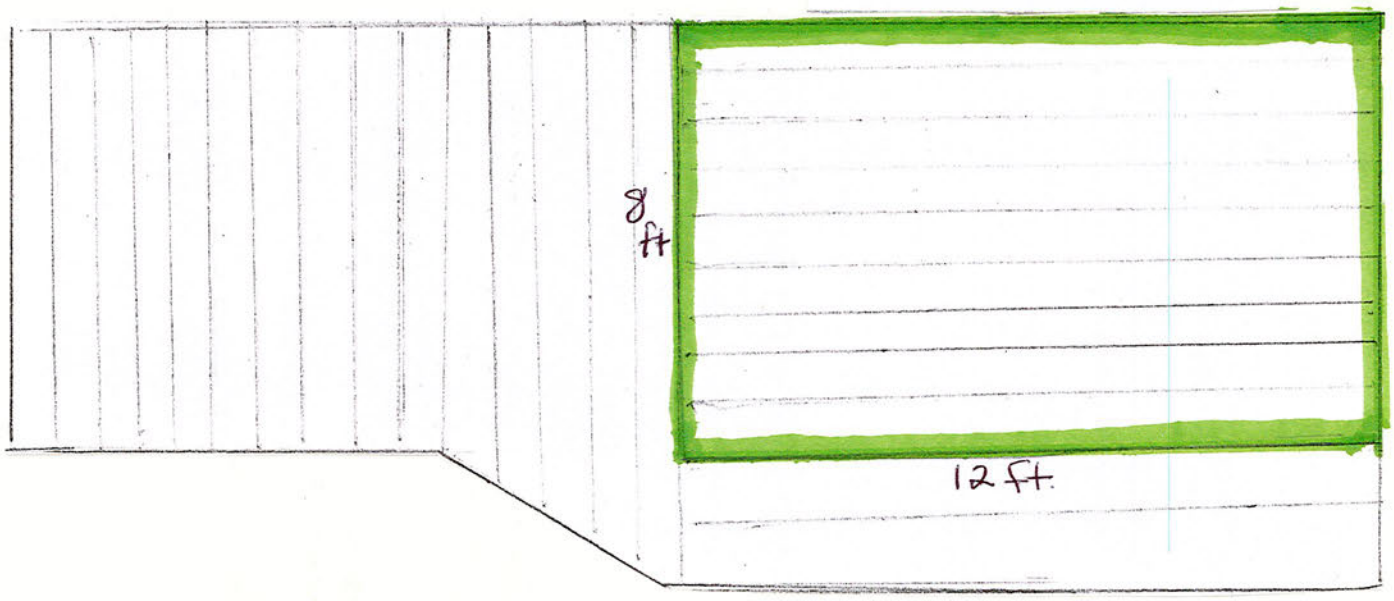
Sheet No. A5

THESE PLANS ARE COPYRIGHTED AND ARE SUBJECT TO COPYRIGHT PROTECTION. NO REPRODUCTION WITHOUT WRITTEN PERMISSION COPYRIGHT 2023

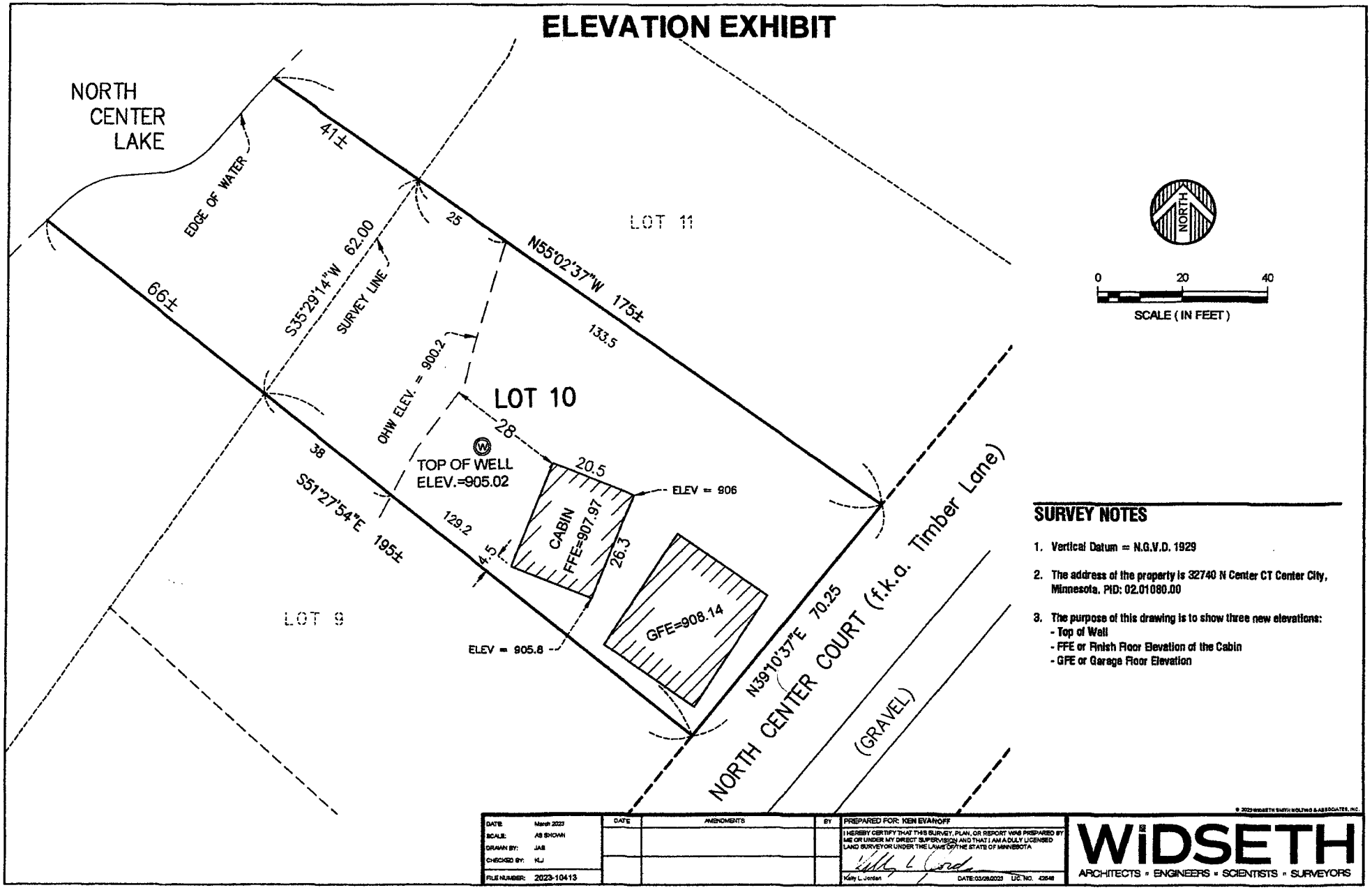
Existing non conforming unattached DECK



Proposed new elevated DECK



ELEVATION EXHIBIT



SURVEY NOTES

1. Vertical Datum = N.G.V.D. 1929
2. The address of the property is 32740 N Center CT Center City, Minnesota. PID: 02.01080.00
3. The purpose of this drawing is to show three new elevations:
   - Top of Well
   - FFE or Finish Floor Elevation of the Cabin
   - GFE or Garage Floor Elevation

DATE:	March 2023
SCALE:	AS SHOWN
DRAWN BY:	JAS
CHECKED BY:	KLJ
FILE NUMBER:	2023-10413

DATE	AMENDMENTS	BY

PREPARED FOR: KEN EVANOFF

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA

Kelly L. Jordan DATE: 03/28/2023 LIC. NO. 42648

© 2023 WIDSETH SMITH NOLTING & ASSOCIATES, INC.

WIDSETH
ARCHITECTS ▫ ENGINEERS ▫ SCIENTISTS ▫ SURVEYORS

EXISTING (Incorrectly Recorded) ★

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:		square feet per acre:		Total area of parcel in square feet
.21	x	43,560	=	

OR Total area of parcel in square feet: 8778

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling	26 x 20	=	520
garage	24 x 28	=	672
★ deck	17 x 4	=	68
patio	NA	=	NA
sidewalk	NA	=	NA
driveway	28 x 20.5	=	574
other; list:			
addition	(18.5 x 26 ÷ 2) (28 x 13 ÷ 2)	=	422.5
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			2256.5

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:			
		=	
		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			0

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:			
		=	
		=	
TOTAL OTHER ITEMS			0

Calculate:

Total from "Residential Structures":	1834	+
Total from "Agricultural Structures":		+
Total from "Other Items":	422.5	+
Total square footage of coverage:	2256.5	=
(divide by total area of parcel, above)		/
		=
TOTAL IMPERVIOUS SURFACE	25.7	%

signature

date

corresponding permit number

· Proposed

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:		square feet per acre:		Total area of parcel in square feet
.21	x	43,560	=	

OR Total area of parcel in square feet: 8778

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling	26 x 20	=	520
garage	24 x 28	=	672
deck	NA	=	
patio	NA	=	
sidewalk	NA	=	
driveway	28 x 20.5	=	574
other; list:			
addition	18.5 x 26 ÷ 2 28 x 13 ÷ 2	=	422.5
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			2188.5

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:			
		=	
		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			0

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:			
		=	
		=	
TOTAL OTHER ITEMS			0

Calculate:

Total from "Residential Structures":	1766	+
Total from "Agricultural Structures":		+
Total from "Other Items":	422.5	+
Total square footage of coverage:	2188.5	=
(divide by total area of parcel, above)		/
		=
TOTAL IMPERVIOUS SURFACE	24.9	%

signature

date

corresponding permit number

· Proposed

STAFF CORRECTIONS BG

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:		square feet per acre:		Total area of parcel in square feet
.21	x	43,560	=	

OR Total area of parcel in square feet: ~~8708~~ 9,147.6#

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling	26 x 20	=	520
garage	24 x 28	=	672
deck	NA	=	
patio	NA	=	
sidewalk	NA	=	
driveway	28 x 20.5	=	574
other; list:			
addition	18.5 x 26 ½ / 25 x 13 ÷ 2	=	422.5
FISH HOUSE	8' x 10'	=	80#
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			~~2188.5~~ 2,268.5#

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:			
		=	
		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			0

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:			
		=	
		=	
TOTAL OTHER ITEMS			0

Calculate:

Total from "Residential Structures":	1766	+	
Total from "Agricultural Structures":		+	signature
Total from "Other Items":	~~422.5~~	+	502.5#
Total square footage of coverage:	~~2188.5~~	=	2,268.5#
(divide by total area of parcel, above)		/	
		=	date / corresponding permit number
TOTAL IMPERVIOUS SURFACE	~~24.9~~	%	24.8%

Kenneth & Mary Evanoff - Aerial Photo

Property owners Kenneth & Mary Evanoff are requesting Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21 in order to expand a legal non-conforming structure (deck) which is closer to the Ordinary High Water Level (OHWL) than required. The .21± acre subject site is located at 32740 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01080.00).

Evanoff property -

Kenneth & Mary Evanoff - Aerial Photo

Property owners Kenneth & Mary Evanoff are requesting Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21 in order to expand a legal non-conforming structure (deck) which is closer to the Ordinary High Water Level (OHWL) than required. The .21± acre subject site is located at 32740 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01080.00).

Evanoff property -

RESOLUTION NO. BOAA2023-0601

A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, APPROVING VARIANCES TO ZONING ORDINANCE SECTION 4.03 AND SHORELAND MANAGEMENT ORDINANCE SECTION 5.21 IN ORDER TO EXPAND A LEGAL NON-CONFORMING STRUCTURE ON PROPERTY LOCATED AT 32740 N. CENTER COURT IN CHISAGO LAKE TOWNSHIP

WHEREAS, Kenneth Evanoff and Mary Evanoff, property owners, submitted an application dated received May 30, 2023 and considered complete on June 7, 2023 for Variances to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21; and

WHEREAS, the property owners desire to expand their legal non-conforming structure (deck) by increasing the height. The proposed expansion, similar to the existing deck, will be closer to the OHWL than allowed by the Shoreland Management Ordinance and closer to the southerly property boundary (side yard) than allowed by the Zoning Ordinance; and

WHEREAS, the subject site is legally described as:

PID 02.01080.00
Lot 10, Chi-Gak-Wa Shores, as per plat thereof on file and of record in the office of the Register of Deeds in and for said Chisago County, Minnesota

WHEREAS, notice was provided and on June 29, 2023 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the applicant(s) and/or property owner(s), and invited members of the public to comment; and

WHEREAS, the Board of Adjustment and Appeals considered several criteria for granting Variances and made the following findings per Zoning Ordinance Section 8.06 Variances:

Criteria #1 The proposed action will not impair an adequate supply of light and air to adjacent property;

Finding #1 *The County finds that the proposed expansion of a non-conforming structure (deck) will occur in such a manner that it will not be situated any closer to adjacent properties / property boundaries than the existing structure and will therefore have no impact on the supply of light or air to adjacent properties.*

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

Finding #2 *The proposed expansion relates to a deck only and will not increase the number of bedrooms or occupants; therefore, the County finds that the proposed action will not increase the amount of traffic generated at the subject site nor increase congestion on surrounding roadways.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

Finding #3 *The property owners will be required to obtain a building permit prior to construction of the proposed expansion, and it will, therefore, be constructed in compliance with all applicable codes. Being compliant with all applicable codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.*

Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;

Finding #4 *Being that the subject site is currently developed and the proposed expansion will not change how the property is being used, the County finds that there is no evidence to suggest that there will be any negative impact to surrounding properties.*

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;

Finding #5 *The proposed expansion of a non-conforming structure will not create additional bedrooms and will not increase the number of occupants in the dwelling or the need for facilities and services; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.*

Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and

Finding #6 *The County finds that the proposed expansion of a non-conforming structure will not have any negative fiscal impact on the County or school district.*

Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.

Finding #7 *The subject site is zoned Rural Residential II (RRII) District / Shoreland Management District. The existing deck is considered legal non-conforming due to setback encroachments created by development of the subject site prior to the County adopting official land use controls. The proposed expansion is contrary to the intent of applicable land use controls; however, the Zoning Ordinance allows for Variances to expand legal non-conforming uses when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action satisfies the three-factor test of uniqueness, reasonableness and essential character.*

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variances is hereby approved, subject to the following conditions:

1. This approval allows the expansion of a non-conforming structure in the Rural Residential II (RRII) District / Shoreland Management District and grants the following Variances:
    a. A Variance to allow the replacement and expansion of a non-conforming deck by increasing the height. The existing deck appears to be less than 12" off the ground and the expanded deck will be placed at the same level as the main level sliding door on the west wall of the dwelling (approximately 66 ½" – 74 ½" off the ground as measured at the west wall of the dwelling).
    b. A Variance to allow the expanded deck to be situated closer to the Ordinary High Water Level (OHWL) than allowed by the Chisago County Shoreland Management Ordinance and closer to the southerly property boundary (side yard) than allowed by the Chisago County Zoning Ordinance. The approved deck shall be located no closer to the OHWL or southerly property boundary than the existing deck.
2. The approved deck shall be constructed in conformance with application materials dated received May 30, 2023 and kept on file with the Department of Environmental Services, including that the

deck shall be no greater than 12’ wide x 8’ deep (96 sq ft). Any deviation from the approved request shall require further review and approval from the Board of Adjustment and Appeals at the property owners’ expense.

3. The ground underneath the deck shall remain pervious.
4. The County acknowledges that the following Variances were granted on April 27, 2023 and filed with the Chisago County Recorder as Document #T-29208 allowing the expansion of a legal non-conforming structure through expansion of the basement and overall increase in height of the dwelling:
    a. A Variance to allow the expansion of a legal non-conforming structure.
    b. A 47’ Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the existing dwelling and proposed basement expansion to be situated 28’ from the OHWL.
5. The County acknowledges that the following Variances were granted on July 28, 2022 and filed with the Chisago County Recorder as Document #A-661410 allowing for a 422.5 sf addition to connect the existing dwelling and detached garage:
    a. A 5.5’ Variance to the side yard setback requirement allowing the proposed dwelling with attached garage to be situated 4.5’ from the southerly property boundary;
    b. An approximate 25’ Variance to the OHWL setback requirement allowing the proposed addition to be situated approximately 50’ from the OHWL;
    c. An approximate 14’ Variance to the township road setback requirement allowing the proposed addition to be situated approximately 26’ from the township road Right-of-Way; and
    d. A .7% Variance to the maximum amount of impervious surface coverage allowing the subject site to have an impervious surface coverage of 25.7%.
6. The property owners shall comply with all conditions included in the July 28, 2022 Variance approval (Document #A-661410) and April 27, 2023 Variance approval (Document #T-29208) unless specifically noted otherwise by this approval.
7. The property owners shall obtain a building permit prior to construction and, further, the deck shall comply with all applicable codes and regulations except as otherwise permitted by this Variance.
8. This Variance shall be made use of within one year of the date of approval or it shall become null and void. Additionally, this approval grants an extension to the July 28, 2022 Variance and April 27, 2023 Variance approvals such that the 2022 and 2023 approvals must be made use of within one year of the date of this approval or they shall all become null and void.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of June, 2023.

Gregg Carlson	_____	John Sutcliffe	_____
Douglas Greene	_____	Charles Yeager	_____
Becky Strand	_____		

_____ ATTEST: _____

Gregg Carlson
Chair

Beth Gervais
Land Services Coordinator