



Chisago County, MN
BOARD OF ADJUSTMENT & APPEALS
Meeting Agenda
February 29, 2024 | 7:00 pm

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

Tour Time and Date: Wednesday, February 28, 2024 at 8:15 am
Departing from Chisago County Highway Department, 31325 Oasis Road, Center City, MN

1. **Call to Order and Pledge of Allegiance**
2. **Roll Call and Determination of a Quorum**
3. **Approval of Agenda**
4. **Approval of Minutes**
 - a. January 25, 2024
5. **Receive all Materials and Submittals into Record**

Previously Distributed Materials:

 - a. Complete meeting packet including staff report(s) with attachments for agenda item(s) 6a, 6b and 6c
6. **Public Hearings – New Applications**
 - a. **Brody Halseth** – Property owner Brody Halseth is requesting a Variance in order to exceed the maximum allowable amount of accessory storage space in the Rural Residential II (RRII) District. The 7.13± acre subject site is located at 50491 Arbor Avenue W. in Nessel Township, S20, T37, R22 (PID 06.00397.03).
 - b. **Christopher Perry** – Property owner Christopher Perry is requesting an after-the-fact Variance in order to allow a detached accessory structure closer to the centerline of a County State Aid Highway than required and to allow said structure to exceed the height of the dwelling in the Rural Residential I (RRI) District. The .97± acre subject site is located at 44019 Cedarcrest Trail / CSAH 8 in Fish Lake Township, S22, T36, R22 (PID 03.00302.01).
 - c. **Teresa M. Simmons Trust** – Trustees Scott & Teresa Simmons are requesting a Variance in order to enlarge and intensify a non-conforming structure closer to the Ordinary High Water Level than required in the Rural Residential II (RRII) District / Shoreland Management District. The .31± acre subject site is located at 32770 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01084.00).
7. **Public Hearings – Continued Hearings**

None
8. **Old Business**
9. **New Business**
10. **Miscellaneous**
11. **Adjourn Meeting**

The next meeting is scheduled for Thursday, March 28, 2024 at 7:00 pm.

Board of Adjustment and Appeals

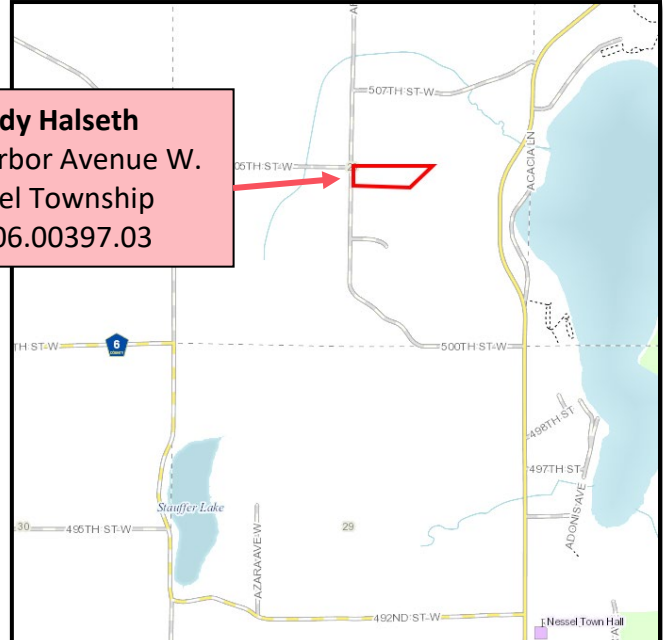
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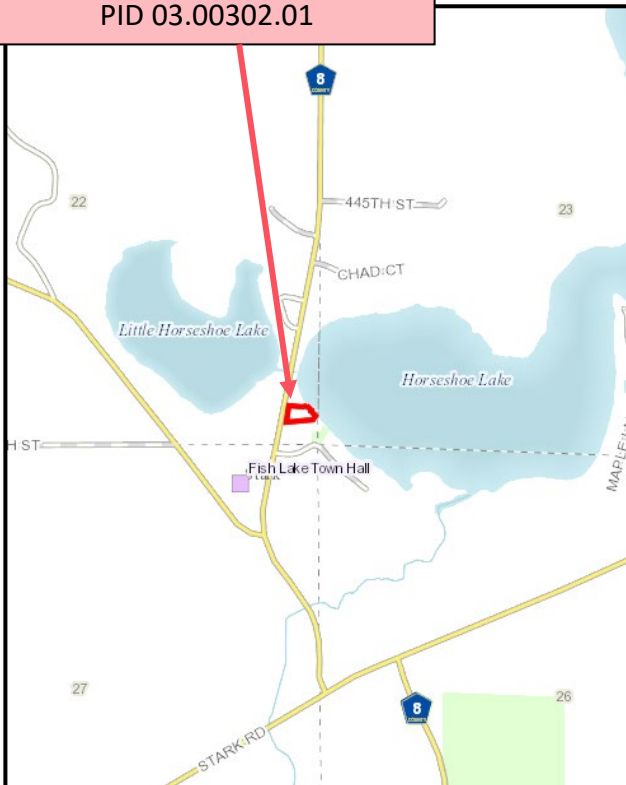
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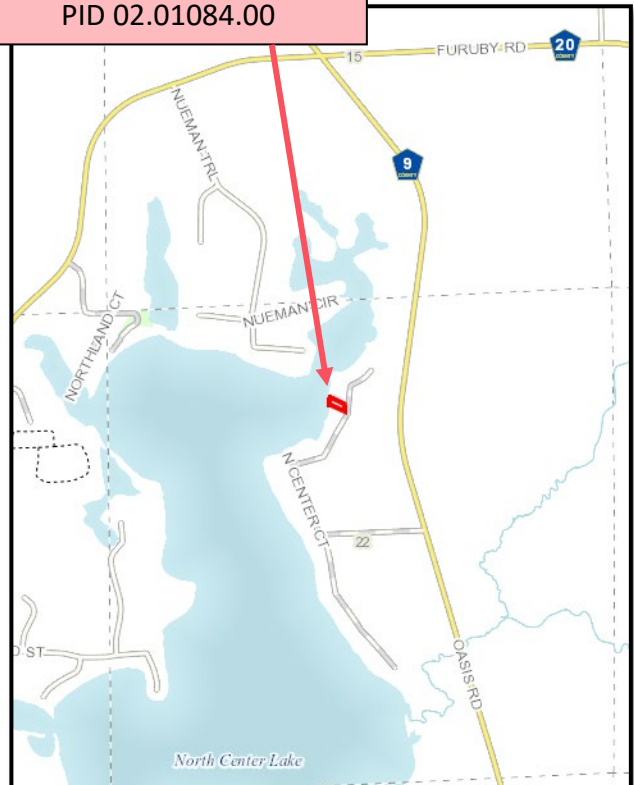
Brody Halseth
50491 Arbor Avenue W.
Nessel Township
PID 06.00397.03



Christopher Perry
44019 Cedarcrest Trail / CSAH 8
Fish Lake Township
PID 03.00302.01



Teresa M. Simmons Trust
32770 N. Center Court
Chisago Lake Township
PID 02.01084.00



**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
January 25, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, January 25, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; and, Nikki Garner, Office 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, John Sutcliffe, Becky Strand, Gregg Carlson and Chip Yeager. Absent: None. A quorum was established with all members present.

APPOINTMENT OF OFFICERS – Chair Carlson called for nominations for 2024 Chair. Chair Carlson nominated Becky Strand for Chair; second by John Sutcliffe. Upon multiple calls, no other nominations were made. All present voted and the nomination was unanimously affirmed.

Chair Strand called for nominations for 2024 Vice Chair. John Sutcliffe nominated Doug Greene for Vice Chair; second by Gregg Carlson. With no other nominations made, all present voted and the nomination was unanimously affirmed.

APPROVAL OF AGENDA – *Motion* by Doug Greene to approve the agenda as presented; second by Chip Yeager. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – *Motion* by Gregg Carlson to approve the October 26, 2023 meeting minutes as presented; second by John Sutcliffe. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – *Motion* by John Sutcliffe to receive all applications, submittals, reports, and other materials into the record; second by Chip Yeager. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included the complete meeting packet with staff reports 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

Daniel Sager – Coordinator Gervais provided background information on property owner Daniel Sager's Variance request for property located at 11967 Wilcox Road in Sunrise Township (PID 09.00083.10), explaining that Sager was requesting a Variance in order to expand a legal non-conforming detached accessory structure closer to the Ordinary High Water Level (OHWL) of the Sunrise River than required. The .87± acre subject site was located within the Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District. Gervais reviewed details of the subject site and surrounding area, noting that department records suggested that the non-conforming property was created with County Board approval in 1972. Gervais shared that a Variance was granted by the County in 1996 allowing the dwelling – and presumably the detached accessory structure (garage) – to be constructed in their current locations which encroached on the required Sunrise River OHWL setback.

Gervais explained that the requested Variance would allow construction of an 1,100 sf accessory structure addition closer to the Sunrise River OHWL than required. The required setback was 200' and the proposed

addition would be located as close as approximately 126' from the OHWL, which equated to an approximate 74' Variance. The proposed addition would meet all other required setbacks. Gervais noted that, being located in the AG District, the subject site was not restricted in number of detached accessory structures or the overall amount of accessory storage space. The application materials showed that the proposed amount of impervious surface coverage was 21.47%, which was within the allowed maximum of 25%. Sager's application materials included a written narrative which addressed the State mandated practical difficulty standard, explaining that the lot was not deep enough to allow for compliance with the required OHWL setback yet the proposed addition would be in compliance with all other required setbacks; the proposed addition would be located as far westerly as possible so as to be as far from the Sunrise River as possible; due to lot size and shape, the only potential location for the proposed addition was within 200' of the OHWL of the river and the proposed addition would not be located any closer to the river than the existing structures; and, neighboring properties to the north and south had structures located similar distances from or even closer to the OHWL of the river and the proposed structure would not be visible from the river.

The Technical Review Committee met with Sager on January 10, 2024 and no concerns were identified. The Sunrise Town Board considered the request on January 18, 2024 and recommended approval with no conditions. The State mandated 60-day review period was scheduled to expire on March 3, 2024. The Department of Natural Resources (DNR) Area Hydrologist commented that the DNR may have objected to the Variance if the structure was proposed to be located closer to the river than the existing structures. Gervais commented that staff interpreted this to mean that the DNR was not objecting to the request being that the structure would not exacerbate the existing non-conforming setback.

Gervais concluded by offering a recommendation of approval with conditions and reviewed options available to the Board.

Chair Strand invited the applicant to address the Board. Daniel Sager approached the Board and was available to answer questions. Doug Greene inquired if a second driveway was planned. Sager responded that there was no plan for a second driveway. Gregg Carlson inquired if Sager had building plans or a sketch for the proposed addition. Sager produced and shared plans with the Board. Gregg Carlson asked clarifying questions about the design of the proposed addition, such as overall height and roofline, and Sager provided the specific requested details. Board members and Sager discussed drainage, with Sager explaining that drainage from the existing structure would continue to flow toward the river and drainage from the proposed addition would be directed toward the westerly property boundary / away from the river.

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

Motion by John Sutcliffe to adopt Resolution No. BOAA2024-0101, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing the expansion of a legal non-conforming structure closer to the Ordinary High Water Level than required on property located at 11967 Wilcox Road in Sunrise Township, as presented; second by Chip Yeager. The ***motion passed*** and carried unanimously.

Approved Conditions:

1. This approval grants an approximate 74' setback Variance, allowing the proposed detached accessory structure addition to be no closer than approximately 126' from the Ordinary High-Water Level (OHWL) of the Sunrise River.
2. Except as specifically required herein, the proposed detached accessory structure addition shall be constructed in general conformance with the application materials dated received December 27, 2023,

including that the addition shall be located on the westerly side of the existing detached accessory structure and maintain a 20' setback from the westerly and southerly property boundaries. Any significant deviation, 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 permit holder shall obtain a building permit prior to construction and, further, the structure shall comply with all applicable codes and regulations.
4. 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

ADOPTION OF 2024 MEETING SCHEDULE – Coordinator Gervais presented a draft meeting schedule for 2024 which, consistent with previously adopted meeting schedules, generally included regular meetings held at 7:00 pm on the last Thursday of the month and tours held at 8:15 am on the Wednesday prior to regular meetings. Gervais noted that, due to holidays, there were conflicts in November and December, and she suggested alternate dates for the Board's consideration. Gregg Carlson inquired if the November meeting would be held on the same evening as the Planning Commission's November meeting. Gervais responded that, unlike other years, there were no meeting dates which coincided with Planning Commission meeting dates.

Motion by Gregg Carlson to adopt the Chisago County, MN Board of Adjustment & Appeals 2024 Meeting Schedule as presented; second by Doug Greene. The **motion passed** and carried unanimously.

ANNUAL REVIEW OF PLANNING COMMISSION AND BOARD OF ADJUSTMENT AND APPEALS POLICY ON COMMISSION / BOARD STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE – Chair Strand introduced the topic of the annual review. Gregg Carlson inquired if the policy which was included in the meeting packet was the same policy that was approved in 2023. Gervais responded by explaining that what was included in the meeting packet was the policy adopted by the County Board in 2023 after review by the Planning Commission and Board of Adjustment & Appeals, as well as a staff report which outlined the Planning Commission's suggested changes and comments after its January 4, 2024 review of the policy. Carlson noted that he didn't have any concerns with the Planning Commission's two suggested changes to Section 13 and sought clarification on the Planning Commission's concerns with Section 7 (related to conflicts of interest). Gervais explained that, the way the policy was currently written, the County Attorney's Office played a lead role in determining if a conflict of interest existed for a Commission or Board member and the Planning Commission directed staff to consult with the County Attorney's Office to see if this was appropriate or if the language should be amended. Gervais further explained that Assistant County Attorney Fuge had been consulted and was currently in the process of reviewing Section 7. Carlson commented that he felt an individual Commissioner / Board member should be able to make a determination for himself / herself without involvement from the County Attorney's Office. John Sutcliffe concurred that individual members should be able to make a determination and consult with the County Attorney's Office at their own discretion. Doug Greene offered an opposing view, explaining that there may be a scenario in which one Commissioner / Board member may believe another Commissioner / Board member has an undisclosed conflict of interest and assistance from the County Attorney's Office may be necessary. Greene suggested that the policy should include language which addressed the scenario of a Commissioner / Board member or member of the public suspecting a conflict of interest for another Commissioner / Board member, which led to discussion about timing of the claim of conflict of interest. The

general consensus of the Board was to have staff relay the Board's concerns to the County Attorney's Office and seek guidance. Chair Strand sought clarification as to whether a member who had recused him/herself would be able to provide testimony during the public hearing. Gervais responded that members who recused themselves had the ability to provide public testimony. Strand then suggested that the policy be amended to specifically state that members who recused themselves had the ability to provide public testimony. Gregg Carlson inquired about a hypothetical situation in which only three Board members were present (the minimum needed for a quorum) and one of those members recused him/herself due to a conflict of interest. Gervais responded that a quorum was needed in order for the Board to take action and, ideally, a member with a conflict of interest would disclose this conflict in advance so that necessary steps could be taken.

Chair Strand suggested an amendment to Section 13. (F) 1. (j) as follows: "The Planning Commission or Board of Adjustment and Appeals addresses the subject matter through deliberation, questions to citizens applicants and/or their representatives and staff, and reactions and statement of position on the subject." Following discussion, fellow Board members concurred with Strand's suggested amendment.

Chair Strand suggested an amendment to Section 15. as follows: "The Chair is a voting member of the Planning Commission and Board of Adjustment and Appeals and may make motions. In addition, the duties and powers of the officers of the Planning Commission and Board of Adjustment and Appeals shall be as follows:" Chair Strand suggested an alternate amendment as follows: "The Chair is a voting member of the Planning Commission and Board of Adjustment and Appeals and may make motions. In addition, the duties and powers of the officers of the Planning Commission shall be as follows:" Following discussion, fellow Board members concurred with Strand's suggested amendment.

Gregg Carlson sought clarification on Section 16. Member Participation (A) and whether the County recognized a distinction between excused absences and unexcused absences. Gervais responded that any advance notice of an absence would be counted and documented as an excused absence but understood that any absence – whether excused or unexcused – could be considered by the County Board as basis for removing a Commissioner or Board member.

Motion by Gregg Carlson to recommend approval of the *Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure* as amended; second by Chip Yeager. The **motion passed** and carried unanimously.

MISCELLANEOUS

Chair Strand reported that she had attended a presentation by Ben Winchester on January 24, 2024 which was hosted by the Chisago County Collaborative Initiative. Strand shared insights from the presentation with fellow Board members, noting that the presentation focused on rural development and housing concerns.

ADJOURN MEETING – Motion by John Sutcliffe to adjourn; second by Doug Greene. The **motion passed** and carried unanimously. The meeting was adjourned at 7:43 p.m.

Rebecca Strand
Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance to Exceed Maximum Allowable Amount of Accessory Storage Space
 50491 Arbor Avenue W., Nessel Township
 DATE: February 29, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing a total of 6,152 square feet of accessory storage space in the Rural Residential II (RRII) District where the maximum allowable amount is 2,000 square feet.

SITE & APPLICATION INFORMATION

Applicant(s):	Brody Halseth
Property Owner(s):	Brody Halseth
Property Address:	50491 Arbor Avenue W. Nessel Township
General Location:	Section 20, Township 37, Range 22
PID:	06.00397.03
Property Area:	7.13± Acres
Current Zoning:	Rural Residential II (RRII) District
Adjacent Zoning:	
North:	Rural Residential II (RRII) District
South:	Rural Residential II (RRII) District
East:	Rural Residential II (RRII) District
West:	Agricultural (AG) District
Date Application Received:	January 4, 2024
Date Application Complete:	January 12, 2024
60-Day Review Period:	March 12, 2024



BACKGROUND

Property owner Brody Halseth wishes to construct a 60' x 80' (4,800 sf) detached accessory structure on property located at 50491 Arbor Avenue W. in Nessel Township. In addition to the proposed detached accessory structure, the subject site has been developed with a dwelling and 1,352 sf attached garage. In total, the property owner wishes to have 6,152 sf of accessory storage space. The subject site is located in the Rural Residential II (RRII) District, where – based on the size of the property – the maximum allowable amount of accessory storage space is 2,000 sf.

SITE ANALYSIS

Halseth's 7.13± acre property is generally located southeast of the intersection of Arbor Avenue W. and 505th Street W. in Nessel Township. The property was platted as Lot 3, Block 1, Arbor Hills in 2004 and meets all current RRII District dimensional requirements. Based on the County's GIS Viewer and County records, it appears that the site has been developed with a dwelling and 1,352 sf attached garage. There does not appear to be any detached accessory structures currently on the property. The subject site and all properties to the north, south, and east are zoned RRII District and properties to the west are zoned AG District. Surrounding properties range in size from 3 acres to 80 acres, with smaller properties situated on the east side of Arbor Avenue W. and larger properties situated on the west side of Arbor Avenue W. Surrounding properties on the east side of Arbor Avenue W. / in the RRII District appear to be developed similarly to the subject site with dwellings and related detached accessory structures.

Topography of the subject site includes gently rolling elevations ranging from 934' near the center of the property (wetland area) to 958' near the easterly property boundary, and wetland areas located in the center and east half of the property. The image below illustrates elevations and wetland areas.



While the minimum lot size in the RRII District is two acres and the subject site has sufficient area to support as many as three parcels, the property would not be eligible for subdivision at this time being that it only has enough road frontage to support one parcel.

PROPOSAL ANALYSIS

The attached site plan shows that the proposed 60' x 80' (4,800 sf) detached accessory structure will be situated 80' from the centerline of Arbor Avenue W. (required setback is 40' from Right-of-Way / property boundary) and 20' north of the south property boundary. The applicant has also provided site photos which illustrate the proposed location.

In an effort to address the State mandated practical difficulty standard, the applicant has provided a written narrative which addresses uniqueness, reasonableness, and essential character as follows (with staff comments shown in *italics*):

- In regard to **uniqueness**, the applicant explains that the subject site is more than seven acres in size; is adjacent to the Agricultural (AG) District; and, requires commercial grade equipment to maintain it.

Staff notes that, while the minimum lot area required in the RRII District is two acres, it isn't uncommon for properties to be larger than two acres in size. It's also not uncommon for the RRII District to abut the AG District.

- In regard to **reasonableness**, the applicant explains that, due to personal circumstances (desire for office and kennel space within the attached garage), there is not enough space to accommodate personal vehicles and the equipment necessary to maintain the property.

Staff notes that, while it may be reasonable to want / need space for storage purposes, the need for additional storage space to accommodate personal vehicles and equipment because the applicant is choosing to use a portion of the existing attached garage for other purposes is a personal circumstance rather than a circumstance directly related to the land itself. Additionally, staff notes that the proposed amount of accessory storage space seems excessive / unreasonable if the sole purpose is to accommodate the storage of personal vehicles, lawn mower, chainsaw, UTVs, plow vehicles, and skid steer.

- In regard to **essential character**, the applicant explains that neighboring properties within the same zoning district have approximately 4,000 sf and 4,800 sf of accessory storage space.

Staff is unaware of circumstances related to the neighboring properties; however, staff has found no record that these properties were granted Variances. Staff suspects that these may be examples of legal non-conforming uses, which is not basis for granting the applicants' request.

Accessory Structures in the RRII District are regulated by Zoning Ordinance Section 4.08.2. The table below provides a comparison of accessory structure standards for the RRII District and corresponding information for the proposed Variance, with the Variance request shown in **red**.

	RRII District Allowable Accessory Storage Space	Existing Accessory Storage Space	Proposed Accessory Storage Space	Total Proposed Accessory Storage Space	Maximum Number of Detached Accessory Structures Allowed	Proposed Number of Detached Accessory Structures
Halseth Variance Request	1,000 sf or 5% of lot area, whichever is greater, but in no case to exceed 2,000 sf *2,000 sf*	Attached Garage = 1,352 sf	60' x 80' detached accessory structure = 4,800 sf	6,152 sf	2	1

The written narrative does not include any indication that the property owner has considered reducing the size of the proposed accessory structure to reduce the Variance needed or eliminate the need for Variance altogether. With an existing 1,352 sf attached garage, the property owner has the ability to

construct up to 648 sf of additional accessory storage space without need for Variance. For reference, this amount of available space would allow for a 20' x 30' structure or 25' x 25' structure without need for Variance.

HISTORICAL ANALYSIS

The Board has reviewed and approved Variance requests for additional accessory storage space in the past. In review of a sampling of requests from 2022 and 2023 for properties within the RRII District, staff notes that the Board did grant Variance approval allowing the properties to have more than 2,000 sf of accessory storage space; however, the Board did not grant approval for the original requested amount in all cases. In some cases, the Board approved a lesser amount through negotiation (which is no longer an option) and, in the most recent case from 2023, the property owner amended his original request downward in order to gain Variance approval. In all cases, the Board considered the total lot area as part of the basis for approval. Aside from one case in 2023 (Clements), Halseth's request reflects the highest percentage of lot area allowed by the Board.

Applicant(s)	PID	Lot Area	Zoning District	Amount Requested	Amount Allowed by BOAA	Approximate Percentage of Lot Area as Allowed by BOAA
Bodell (2022)	02.00848.40	5.23 ac	RRII	3,048 sf	2,760 sf	1.211%
Rieck (2022)	02.00860.00	4.94 ac	RRII	3,354.5 sf	2,850 sf	1.324%
Clements (2023)	02.00751.20	4.90 ac	RRII	4,680 sf	4,680 sf	2.192%
Mueller (2023)	02.00848.10	7.90 ac	RRII	4,852 sf	3,124 sf	.907%
Halseth (2024)	06.00397.03	7.13 ac	RRII	6,152 sf	-----	1.981% as Requested

REVIEW PROCESS

The Technical Review Committee met with property owner Brody Halseth on February 14, 2024. The Committee's discussion focused on the scale of the request, with the Committee encouraging Halseth to consider a smaller structure which would result in a lesser Variance. Halseth provided photos of the surrounding area (see attached) showing the proposed structure location, use of surrounding properties, as well as demonstration of other similarly sized accessory structures.

The Nessel Town Board considered the request on February 13, 2024 and recommended approval.

The State mandated 60-day review period expires on March 12, 2024.

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;

In staff's opinion, the applicant has not cited any exceptional or extraordinary circumstances which apply to the subject site and not to other properties in the same district. Rather, the written narrative references personal circumstances (storage of personal vehicles and equipment, using a portion of the existing attached garage for office and kennel space) which are creating the desire for additional accessory storage space. Additionally, the applicant has cited examples of neighboring RR II District properties with more than 2,000 sf of accessory storage space as a basis for the Variance; however, staff has found no record that either of these examples has been allowed through Variance approval.

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 applicant of rights commonly enjoyed by other RR II District properties. Property owners located in the RR II District have the right to accessory storage in compliance with Zoning Ordinance Section 4.08.2. The subject site, based on lot size, is allowed a maximum of 2,000 sf of accessory storage space, which is the largest amount of accessory storage space permitted in the RR II District. The site has been developed with a 1,352 sf attached garage, leaving 648 sf for additional accessory storage purposes, which, for example, would allow a 20' x 30' structure or 25' x 25' structure without need for 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;

As mentioned above, staff does not believe that the applicant has cited any special conditions or circumstances uniquely related to the property. Instead, the application materials reference a desire for additional accessory storage space to accommodate personal vehicles and equipment. While staff can appreciate the property owner's desire for more accessory storage space, the justification provided seems to be based more on personal preferences and personal circumstances rather than special conditions or unique circumstances related to the property. Further, staff believes that owning more personal vehicles and equipment than can be stored within a maximum of 2,000 sf of accessory storage space is entirely a circumstance resulting from the property owner's actions.

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

Detached accessory structures are a permitted use in the RR II District; therefore, the Variance is not considered a use Variance.

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

There has been no written indication that a smaller structure – requiring a lesser Variance – has been considered. However, the applicant was advised by County staff during the Technical Review Committee meeting to consider an amended request which would require a lesser Variance. As noted above, the property owner currently has 648 sf available for additional accessory storage space, which would allow, for example, a structure such as 20' x 30' (600 sf) or 25' x 25' (625 sf) without the need for a Variance.

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

The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance related to the property, and when it will not alter the essential

character of the surrounding area. Staff does not believe that the Variance, if approved, would be detrimental to other properties in the RRII District; however, staff does not believe that the application fully or satisfactorily addresses the State mandated practical difficulty standard, specifically in terms of reasonableness (i.e., staff believes the property owner has other reasonable options for an accessory structure which does not require a Variance) and uniqueness (i.e., staff does not believe that there are any unique characteristics related to the property itself which prohibit the property owner from complying with the maximum allowable amount of accessory storage space).

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

While the applicant did suggest that personal vehicles are needed to commute to and from work to support and maintain the property, the applicant also provided additional conditions and circumstances as basis for the Variance request.

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 entire subject site is located 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;
<i>Finding #1</i>	<i>The County finds that the proposed detached accessory structure will be situated in a manner that complies with all required setbacks so as not to impair an adequate supply of light and air to adjacent properties.</i>
Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
<i>Finding #2</i>	<i>The proposed structure is intended to be accessory to the existing dwelling and will not have any direct impact on the number of occupants residing in the dwelling. Therefore, the County finds that the proposed structure will not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on Arbor Avenue W. or surrounding roadways.</i>
Criteria #3	The proposed action will not increase the danger of fire or endanger the public safety;
<i>Finding #3</i>	<i>The property owner will be required to obtain a building permit prior to construction of the proposed detached accessory structure 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.</i>
Criteria #4	The proposed action will not unreasonably cause undue negative impact to surrounding properties;

- Finding #4 Based on existing development within the surrounding area, including detached accessory structures, the County finds no evidence to suggest that the proposed structure will cause undue 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 accessory structure will not create additional bedrooms and will not increase the number of occupants in the existing dwelling or the need for additional facilities and services. Therefore, the County finds that the proposed detached accessory structure 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 proposed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the proposed structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 intent of Zoning Ordinance Section 4.08.2, F. is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District. However, the Zoning Ordinance also allows for Variances, including Variances to exceed the maximum amount of accessory storage space, 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.*
- OR-**
- Finding #7 The intent of Zoning Ordinance Section 4.08.2, F. is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District. The County finds that the proposed action is contrary to the intent of Zoning Ordinance Section 4.08.2, F. and finds that the application fails to fully or satisfactorily address the State mandated practical difficulty standard, specifically in terms of reasonableness and uniqueness. The County further finds that the property owners have other reasonable options for constructing a detached accessory structure which comply with the maximum allowable amount of accessory storage space, and that there are no unique characteristics related to the property which are preventing the property owner from complying with the maximum amount of accessory storage space.*

STAFF RECOMMENDATION

Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff does not support the request for Variance and recommends denial** and has prepared a resolution for the Board's consideration. Staff's recommendation is based on the comments included in the Variance Analysis section (shown in *italics*) along with Finding of Fact 7 (shown in *red italics*).

Alternatively, should the Board determine that the request for Variance satisfies the State mandated practical difficulty standard and the Board adopts Findings of Fact (all those Findings shown in *black italics* and excluding the Finding shown in *red italics*) to support approval of the request for Variance, staff encourages the Board to consider the following conditions of approval:

1. This approval grants a 4,152 square foot Variance to Zoning Ordinance Section 4.08.2, F, allowing the property to have a total of 6,152 square feet of accessory storage space in the Rural Residential II (RRII) District. In addition to the existing 1,352 square foot attached garage, this approval allows the construction of a detached accessory structure up to 4,800 sf in size.
2. The detached accessory structure shall meet all required setbacks.
3. The detached accessory structure shall be constructed in general conformance with the application materials, including site plan, dated received January 4, 2024. Any significant deviation from the approved request and site plan, 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.
4. Any future subdivision or reconfiguration of the property shall only occur in such a manner that does not reduce the existing lot area of 7.13± acres, unless the property is brought into compliance with the regulations for accessory structures / accessory storage space in the Rural Residential II (RRII) District in effect at the time of said subdivision or reconfiguration.
5. The exterior appearance and color of the detached accessory structure shall match as close as possible the exterior material, appearance, and color of the dwelling.
6. The permit holder shall obtain a building permit prior to construction and, further, the accessory structure shall comply with all applicable codes and regulations except as permitted by this Variance.
7. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

OPTIONS

1. **Approve** the Variance based on the Findings of Fact and conditions as presented or amended. *Note: this option will require the Board to adopt all draft Findings shown in black italics.*
2. **Deny** the Variance based on the Findings of Fact presented or amended. *Note: this option will require the Board to adopt draft Findings #1 - #6 shown in black italics and draft Finding #7 shown in red italics or as amended.*
3. **Table** action to allow for further review and consideration. The current review period expires on March 12, 2024, which means that the Board will also need to **extend the review period** (staff recommends a 60-day extension).

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0201, a resolution denying a Variance to exceed the maximum allowable amount of accessory storage space on property located at 50491 Arbor Avenue W. in Nessel Township, as presented or amended.

If the Board chooses to approve the request for Variance, staff has prepared an alternate resolution which includes Findings of Fact to support approval as well as conditions of approval for the Board's consideration.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plan
 - d. Site photos
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0201 (denial)
5. Draft Resolution No. BOAA2024-0201 (approval)



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 2024-00010

Township Nessel S/T/R 20,037,022 PID# 06.00397.03

Project Address 50491 ARBOR AVE W STANCHFIELD, MN 55080

Property Owner(s) Brody Halseth

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) BRODY HALSETH

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) 60 x 80 POLE SHED

I am allowed 2000 sq ft and want to exceed it.

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

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

Brody Halseth
Applicant Signature

1-4-24
12-30-23
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	\$ <u>546.00</u> <u>600.00</u>	Application Received	<u>1-4-24</u>
Recording Fee	\$ <u>46.00</u>	Application Complete	<u>1-12-24</u>
Plat Fee — No Road(s) / With Road(s)	\$ _____	60 / 120 Day Review Period	<u>3-12-24</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>546.00</u> <u>646.00</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township NESSELL S/T/R 20/37/22 PID# 00.00397.03
Project Address 50491 ARBOR AVE W STANCHFIELD, MN 55080
Property Owner(s) BRODY HALSETH

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) BRODY HALSETH

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) allowed 2000 sq ft. I want to exceed
it and build a 60x80 POLE SHED.

Brody Halseth
Applicant Signature

1-4-24
12-30-23
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 2-29-24 Date of Township Presentation 2-13-24

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

Michelle Meis Dan Halseth BH

Detailed Written Narrative

Brody Halseth



50491 Arbor Ave W

Stanchfield MN 55080

PID 60.00397.03

What is this?

We are allowed 2000sqft on our lot, per Chisago County zoning (includes garage space). This variance application is for a 4,800sqft accessory structure. We are proposing to build a 60x80 building. We have no other structures on this property besides the residence building.

Uniqueness of the property

This property is just over 7 acres and borders agriculture zoned properties. This property has wooded land, tall grasslands, wetland, swamp and large hills. To upkeep this property, we needed commercial grade lawn mowers, chainsaws, utvs (to get into the back of the property that is separated by the swamp), plow vehicles, and skid steer.

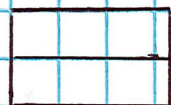
Reasonableness and Unique circumstances

We currently have a garage that is roughly 1,400sqft, half of which is finished. The finished area is used as office space and area for the dogs to reside while we are not home. That leaves us with 750sqft to store the equipment needed to upkeep this expansive property. In order to live and upkeep this property transportation is needed to and from work (1hr for him and 30 min for her). The remaining 750sqft of usable storage space is not suitable to house the equipment needed to upkeep our property and house/upkeep our transportation needed to live at this remote property.

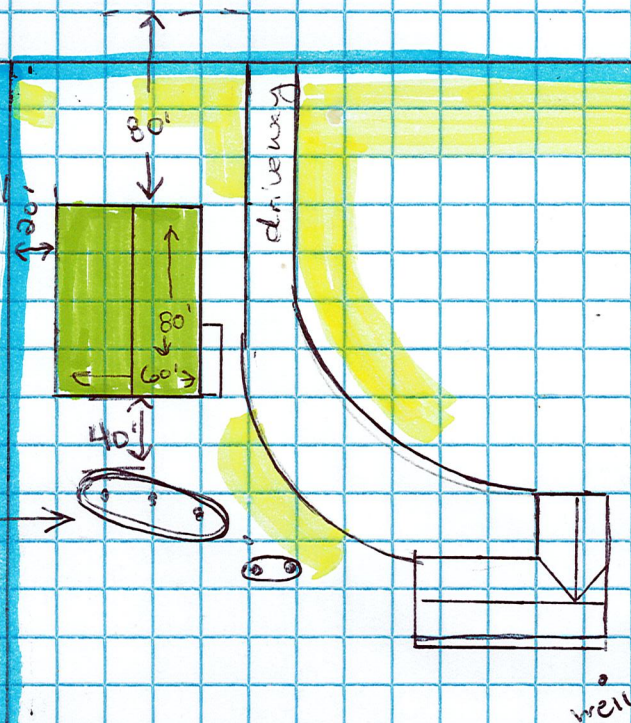
Fairness in the Community

Our neighbors directly to the west are labeled agricultural and enjoy over 12,000sqft of roofed storage space. Our neighbors directly to the north are rr2 and enjoy roughly 4,000sqft of roofed storage space. Our neighbors directly to the south enjoy over 4,800sqft of roofed storage space.

ARBOR AVE W



Septic tanks



06.00397.02

06.00397.03

06.00370.00

Swamp

06.00397.03

yellow = Trees

pink = Swamps/wetland

1  = approx 20 sq ft

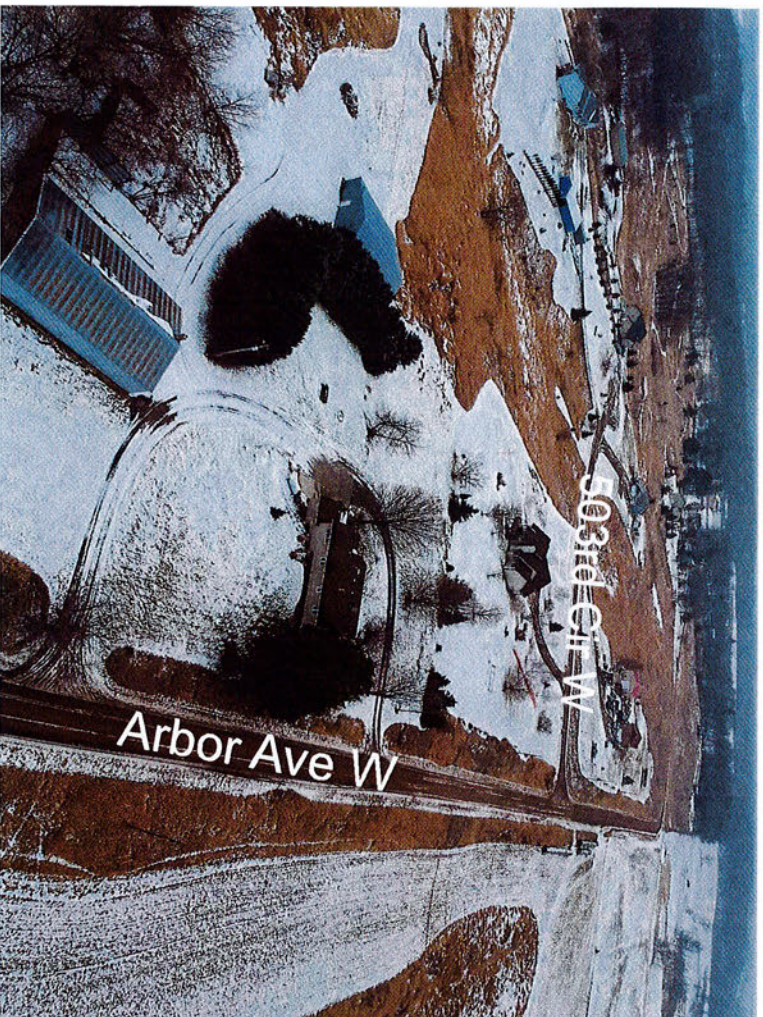
green = proposed building

blue = property line for

50491 arbor ave w

stanchfield mn 55080

06.00371.00



Neighbors to the South
of our property



Proposed location of
outbuilding

Farming Land
West of Property



Deer Farm

Properties
to the North



Backyard/ East
of our Property

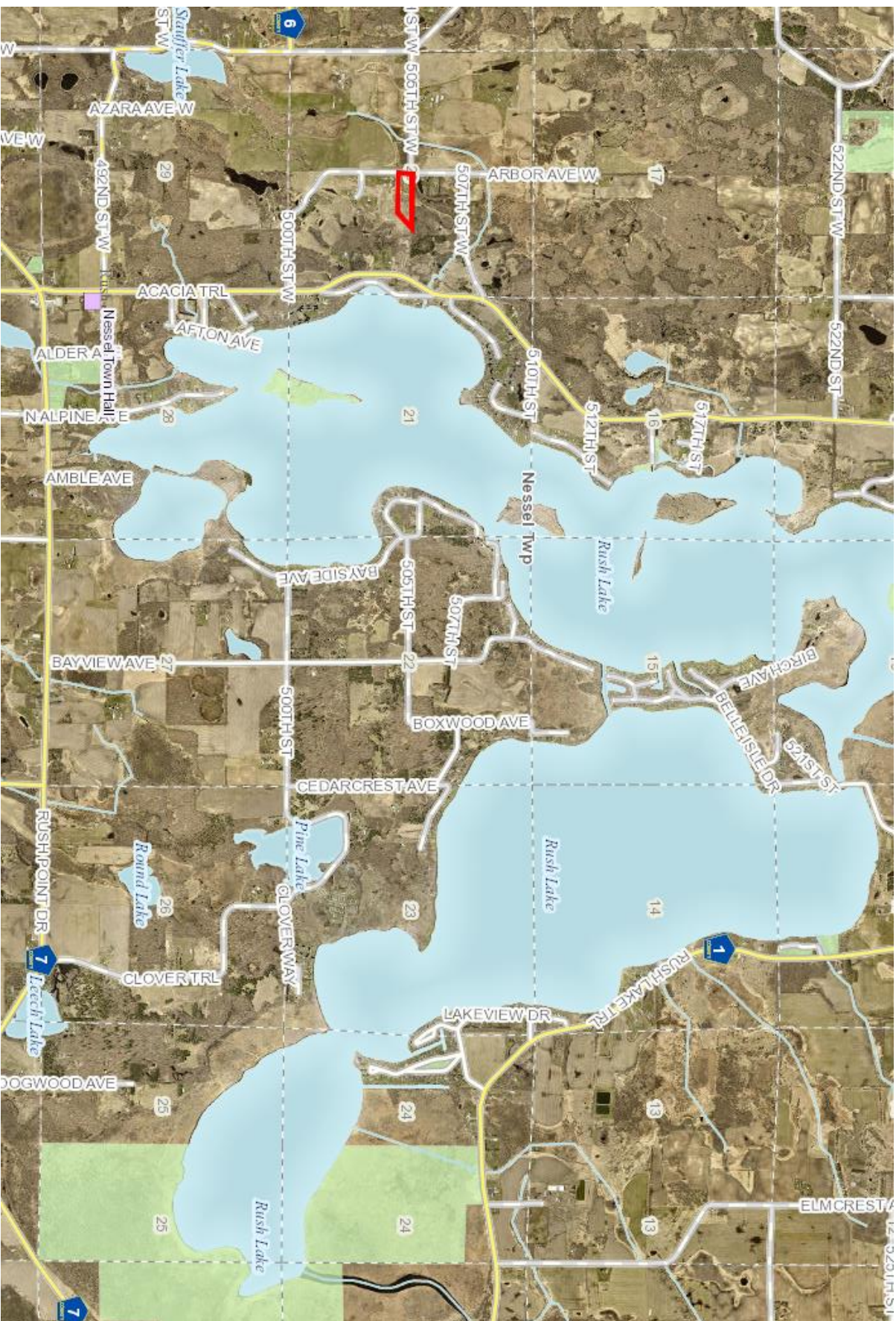


Brody Halseth – Property owner Brody Halseth is requesting a Variance in order to exceed the maximum allowable amount of accessory storage space in the Rural Residential II (RRII) District. The 7.13± acre subject site is located at 50491 Arbor Avenue W. in Nessel Township, S20, T37, R22 (PID 06.00397.03).

Halseth Property - 



Brody Halseth – Property owner Brody Halseth is requesting a Variance in order to exceed the maximum allowable amount of accessory storage space in the Rural Residential II (RRII) District. The 7.13± acre subject site is located at 50491 Arbor Avenue W. in Nessel Township, S20, T37, R22 (PID 06.00397.03).



RESOLUTION NO. BOAA2024-0201

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
DENYING A VARIANCE TO EXCEED THE MAXIMUM ALLOWABLE AMOUNT OF ACCESSORY STORAGE
SPACE ON PROPERTY LOCATED AT 50491 ARBOR AVENUE W. IN NESSEL TOWNSHIP**

WHEREAS, property owner Brody Halseth submitted an application dated received January 4, 2024 and considered complete on January 12, 2024 for a Variance to Zoning Ordinance Section 4.08.2 Accessory Structures and Uses in UR, RRI, and RRII Districts; and

WHEREAS, the property owner wishes to construct a 4,800 sf detached accessory structure in addition to the existing 1,352 sf attached garage (proposed total of 6,152 sf of accessory storage space) where the maximum allowable amount of accessory storage space is 2,000 sf; and

WHEREAS, the 7.13± acre subject site is located in the Rural Residential II (RRII) District; and

WHEREAS, the subject site is legally described as:

PID 06.00397.03

Lot Three (3), Block One (1), Arbor Hills, Chisago County, Minnesota.

WHEREAS, notice was provided and on February 29, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner, 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 detached accessory structure will be situated in a manner that complies with all required setbacks so as not to impair an adequate supply of light and 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 structure is intended to be accessory to the existing dwelling and will not have any direct impact on the number of occupants residing in the dwelling. Therefore, the County finds that the proposed structure will not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on Arbor Avenue W. or surrounding roadways.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;
Finding #3 *The property owner will be required to obtain a building permit prior to construction of the proposed detached accessory structure 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** *Based on existing development within the surrounding area, including detached accessory structures, the County finds no evidence to suggest that the proposed structure will cause undue 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 accessory structure will not create additional bedrooms and will not increase the number of occupants in the existing dwelling or the need for additional facilities and services. Therefore, the County finds that the proposed detached accessory structure 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 proposed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the proposed structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 intent of Zoning Ordinance Section 4.08.2, F. is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District. The County finds that the proposed action is contrary to the intent of Zoning Ordinance Section 4.08.2, F. and finds that the application fails to fully or satisfactorily address the State mandated practical difficulty standard, specifically in terms of reasonableness and uniqueness. The County further finds that the property owners have other reasonable options for constructing a detached accessory structure which comply with the maximum allowable amount of accessory storage space, and that there are no unique characteristics related to the property which are preventing the property owner from complying with the maximum amount of accessory storage space.*

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variance is hereby **denied** based on the findings provided herein.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of February, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator

RESOLUTION NO. BOAA2024-0201

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
APPROVING A VARIANCE TO EXCEED THE MAXIMUM ALLOWABLE AMOUNT OF ACCESSORY STORAGE
SPACE ON PROPERTY LOCATED AT 50491 ARBOR AVENUE W. IN NESSEL TOWNSHIP**

WHEREAS, property owner Brody Halseth submitted an application dated received January 4, 2024 and considered complete on January 12, 2024 for a Variance to Zoning Ordinance Section 4.08.2 Accessory Structures and Uses in UR, RRI, and RRII Districts; and

WHEREAS, the property owner wishes to construct a 4,800 sf detached accessory structure in addition to the existing 1,352 sf attached garage (proposed total of 6,152 sf of accessory storage space) where the maximum allowable amount of accessory storage space is 2,000 sf; and

WHEREAS, the 7.13± acre subject site is located in the Rural Residential II (RRII) District; and

WHEREAS, the subject site is legally described as:

PID 06.00397.03

Lot Three (3), Block One (1), Arbor Hills, Chisago County, Minnesota.

WHEREAS, notice was provided and on February 29, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner, 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 detached accessory structure will be situated in a manner that complies with all required setbacks so as not to impair an adequate supply of light and 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 structure is intended to be accessory to the existing dwelling and will not have any direct impact on the number of occupants residing in the dwelling. Therefore, the County finds that the proposed structure will not cause an increase in the amount of traffic generated at the subject site and will not increase congestion on Arbor Avenue W. or surrounding roadways.*

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

Finding #3 *The property owner will be required to obtain a building permit prior to construction of the proposed detached accessory structure 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	<i>Based on existing development within the surrounding area, including detached accessory structures, the County finds no evidence to suggest that the proposed structure will cause undue negative impact to surrounding properties.</i>
Criteria #5	The proposed action will not cause an unreasonable strain upon existing facilities and services;
Finding #5	<i>The proposed accessory structure will not create additional bedrooms and will not increase the number of occupants in the existing dwelling or the need for additional facilities and services. Therefore, the County finds that the proposed detached accessory structure will not have any strain or increased impact upon existing facilities and services.</i>
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	<i>The proposed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the proposed structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and school district.</i>
Criteria #7	The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
Finding #7	<i>The intent of Zoning Ordinance Section 4.08.2, F, is to establish a maximum amount of accessory storage space in the County's various zoning districts, including the Rural Residential II (RRII) District. However, the Zoning Ordinance also allows for Variances, including Variances to exceed the maximum amount of accessory storage space, 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.</i>

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

1. This approval grants a 4,152 square foot Variance to Zoning Ordinance Section 4.08.2, F, allowing the property to have a total of 6,152 square feet of accessory storage space in the Rural Residential II (RRII) District. In addition to the existing 1,352 square foot attached garage, this approval allows the construction of a detached accessory structure up to 4,800 sf in size.
2. The detached accessory structure shall meet all required setbacks.
3. The detached accessory structure shall be constructed in general conformance with the application materials, including site plan, dated received January 4, 2024. Any significant deviation from the approved request and site plan, 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.

4. Any future subdivision or reconfiguration of the property shall only occur in such a manner that does not reduce the existing lot area of 7.13± acres, unless the property is brought into compliance with the regulations for accessory structures / accessory storage space in the Rural Residential II (RRII) District in effect at the time of said subdivision or reconfiguration.
5. The exterior appearance and color of the detached accessory structure shall match as close as possible the exterior material, appearance, and color of the dwelling.
6. The permit holder shall obtain a building permit prior to construction and, further, the accessory structure shall comply with all applicable codes and regulations except as permitted by this Variance.
7. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of February, 2024.

Gregg Carlson
Douglas Greene
Becky Strand

John Sutcliffe
Charles Yeager

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: After-the-Fact Variance for Detached Accessory Structure to Encroach on the Required County State Aid Highway Setback and to Exceed the Height of the Principal Structure
 44019 Cedarcrest Trail / CSAH 8, Fish Lake Township
 DATE: February 29, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider an after-the-fact Variance in order for a recently constructed detached accessory structure to encroach on the required County State Aid Highway (CSAH) setback and to exceed the height of the dwelling in the Rural Residential I (RRI) District.

SITE & APPLICATION INFORMATION

Applicant(s):	Christopher Perry
Property Owner(s):	Christopher Perry
Property Address:	44019 Cedarcrest Trail / CSAH 8 Fish Lake Township
General Location:	Section 22, Township 36, Range 22
PID:	03.00302.01
Property Area:	.97± Acres
Current Zoning:	Rural Residential I (RRI) District / Shoreland Management District
Adjacent Zoning:	
North:	Rural Residential I (RRI) District / Shoreland Management District
South:	Rural Residential I (RRI) District / Shoreland Management District
East:	Horseshoe Lake
West:	Agricultural (AG) District / Shoreland Management District
Date Application Received:	January 24, 2024
Date Application Complete:	February 2, 2024
60-Day Review Period:	April 2, 2024

BACKGROUND

Property owner Christopher Perry is requesting an after-the-fact Variance allowing for a recently constructed detached accessory structure to be located approximately 73' from the centerline of Cedarcrest Trail / CSAH 8 where the required setback is 135' from centerline and to exceed the height of the dwelling by approximately 6' where the structure is not allowed to exceed the height of the principal structure (dwelling). The request



for Variance is a result of enforcement efforts by the Department of Environmental Services after identifying a new structure on the subject site which had been constructed without the necessary building permit or Variance approval.

SITE ANALYSIS

The .97± acre subject site, platted as Lot 1, Block 1, Wicklund Horseshoe Lake Estates in February 2006, is located within the Rural Residential I (RRI) District / Shoreland Management District and situated on the southwest shore of Horseshoe Lake. The property itself, having been platted in 2006, meets all minimum dimensional requirements of the RRI District / Shoreland Management District. The subject site is currently developed with a one-story dwelling, a 440 sf detached garage, a 140 sf shed, a three-sided covered wood shed (dimensions unknown), a hoop structure (dimensions unknown), and the 1,344 sf detached accessory structure which is the basis of this after-the-fact Variance request. Records from the Chisago County Assessor's Office suggest that the dwelling, and possibly the 440 sf detached garage, was constructed in 1960. In total, the property currently has five detached structures with an unknown amount of accessory storage space where the maximum allowable number of detached accessory structures is two and the maximum allowable amount of accessory storage space is 2,000 sf.

The dwelling appears to meet all required setbacks. However, all five of the detached accessory structures – including the four pre-existing structures and the newest structure – encroach on either the required CSAH setback or the required OHWL setback.

Properties to the north and south are similarly zoned and properties to the west are located in the Agricultural (AG) District / Shoreland Management District. Topography of the subject site includes elevations ranging from 936' at the west property boundary (near roadway) to 923' at the shoreline of Horseshoe Lake.

PROPOSAL ANALYSIS

The property owner is seeking after-the-fact Variance approval allowing the recently constructed 28' x 48' (1,344 sf) detached accessory structure to encroach on the required CSAH setback and to exceed the height of the dwelling. The required CSAH setback is 135' from centerline and the attached application materials show and explain that the structure is situated approximately 73' from centerline. Additionally, the application materials explain that the accessory structure is approximately 6' greater in height than the one-story dwelling.

The adjacent image, taken by County staff on January 16, 2024, shows that construction of the unpermitted structure has not yet been completed. The image shows the east and north walls.

The structure is shown on the attached building plans to include a man door, a single garage door (10' wide), and a double garage door (16' wide) on the north wall, as well as three windows on the east wall. The plans also indicate an internal stairway near the



west wall to access the second story. The adjacent image shows what appears to be another man door on the second story as well as two additional windows. Staff notes that the Zoning Ordinance requires that detached accessory structures within the RRI District be limited to one story in height OR two stories “with the second story consisting entirely of unfinished storage space”. The Zoning Ordinance currently doesn’t allow under any circumstance for the second story to be used for living quarters / habitable space.

Being that the subject site is located within the Shoreland Management District, the maximum allowable amount of impervious surface coverage is 25%. The attached impervious surface calculation worksheets show that the existing amount was 8.72% and, following the start of construction on the newest detached accessory structure, that amount increased to 11.90%. Staff has no concerns with the amount of impervious surface coverage.

As indicated in the Site Analysis section, the subject site is currently developed with five detached accessory structures in a zoning district which only allows a maximum of two detached accessory structures. The property owner has indicated that the pre-existing 440 sf detached garage is not structurally sound and that he intends to demolish / remove it, along with the woodshed and hoop structure. Ultimately, the property will have two detached accessory structures totaling 1,484 sf (a 140 sf shed and the 1,344 sf detached accessory structure which is the basis of this after-the-fact Variance request).

In an effort to address the State mandated practical difficulty standard, the property owner has provided a written narrative which addresses reasonableness, uniqueness, and essential character as follows (with staff comments shown in *italics*):

- In regard to **reasonableness**, the property owner states that “The use is within the building setbacks and for private use only. It will improve the property and its value by creating a functional recreation and gathering space. It will improve the look of the property by removing vehicles, boats or other possible eye-sores for the surrounding property owners. It will also add value to the County of Chisago for potential future homeowners or possible builders new to the area.” Further, the property owner states that he believes “the requested Variances would be consistent with the spirit and heritage in the area for the purpose of the Chisago County and the Fish Lake Township Comprehensive Plan to better the future of this County” and, with Variance approval, he “will be able to enjoy [his] home and recreational space that would be consistent in the residential zoning and other approved Variances in this area.”

Staff notes that the structure is not within the required building setbacks as stated by the property owner, as the CSAH setback encroachment is part of the basis of the Variance request. Further, staff notes that much of the explanation relates to personal circumstances and preferences rather than circumstances related to the property itself. It’s unclear to staff how the structure will add value to the County for future homeowners or builders new to the area and it’s also unclear as to the relationship between the proposed structure and the Chisago Comprehensive Plan for the betterment of the County.

- In regard to **uniqueness**, the property owner indicates that he believes the subject site is unique by reason of “exceptional narrowness, shallowness or shape ... or by reason of exceptional topographic conditions” and that this circumstance deprives him of “rights and privileges enjoyed by other property owners in the same zoning district”. Further, the property owner believes that the location of the structure is the only location that the garage could be placed. In regard to structure height, the property owner explains that “The request for a height Variance of the desired structure is

needed due to the uniqueness of the roof trusses. The desired building structure is a gambrel roof (barn) to better represent the historical farms that were and are still common in the area.”

Staff notes that, while the property owner has cited conditions which could be used to describe a unique property (i.e., narrowness, shallowness, shape, topography), he has not actually explained the exact uniqueness related to the subject site. Staff also notes, as a riparian property adjacent to a general development lake, the subject site actually exceeds all minimum dimensional requirements of the Shoreland Management Ordinance, including lot area and lot width. Staff does not view the property as being unique in terms of narrowness, shallowness, shape, or by reason of exceptional topographic conditions. In regard to structure height, staff notes that the property owner’s justification relates to truss design rather than unique features of the property. Further, the truss design is a circumstance resulting from the property owner’s actions.

- In regard to **essential character**, the property owner believes that the structure “will fit into the surrounding area with its barn like appearance with surrounding farms in the area”.

Staff notes that, while the appearance of the structure may be consistent with other structures in the area, the subject site and most surrounding properties are located within a residential zoning district and used for residential purposes, not as farms or for agricultural purposes. Additionally, those adjacent properties which are located within the AG District are also used for residential purposes rather than agricultural purposes. Staff suspects that the property owner’s comment may be more of a general statement about the County rather than a statement about the immediate vicinity.

The table below provides a comparison of Rural Residential I (RRI) District / Shoreland Management District dimensional standards and corresponding information for the proposed Variance, with the Variance request shown in **red**.

	RRI District / Shoreland Management District Standards	Proposed
Road Setback	135’ to centerline of County State Aid Highway	Approximately 73’ from centerline
OHWL Setback	75’ for structures	Approximately 251’ from OHWL
Side Yard Setback	5’ for detached non-ag accessory structures	Approximately 8’ from south property boundary and approximately 145’ from north property boundary
Height	Shall not exceed the height of the principal structure, with a maximum allowable height of 35’	Approximately 6’ greater in height than dwelling
Impervious Surface Coverage	25%	11.90%

REVIEW PROCESS

The Technical Review Committee initially met with property owner Christopher Perry on January 10, 2024, upon receipt of Perry’s original Variance request which was later withdrawn. The group primarily discussed septic-related issues, with the County Sanitarian confirming that the septic system had been inspected in conjunction with this Variance request and it was deemed compliant. Additionally, the Sanitarian confirmed that the recently constructed structure meets the required setback from the septic system. Perry stated that he had no intention of installing sanitary facilities in the structure. The County Engineer commented that the Highway Department had no issues with the request. Overall, the

Committee did not identify any concerns. The Technical Review Committee reviewed Perry's amended / current Variance request on February 14, 2024 and no concerns were identified.

The Fish Lake Town Board considered the request on February 12, 2024 and recommended approval with no conditions.

The State mandated 60-day review period expires on April 2, 2024.

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 written narrative suggests that there may be unique circumstances relating to the subject site; however, the written narrative fails to explain exactly what these circumstances may be. If the property owner intended to suggest that the subject site is uniquely small or narrow, staff would argue that both the lot area and the lot width exceed the minimum requirements of the Shoreland Management District. The written narrative also suggests that the height Variance is needed due to the unique design of the roof trusses. Staff notes that the property owner had complete control over this circumstance and it is not a circumstance which relates to the property itself.

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 applicant of rights commonly enjoyed by other RRI District / Shoreland Management District properties. Properties in the RRI District / Shoreland Management District have the right to be developed with dwellings and related detached accessory structures, when in compliance with the Chisago County Zoning and Shoreland Management Ordinances, and the subject site is presently developed with a dwelling and various related detached accessory structures. The written narrative states that the location of the proposed structure may be the only possible location; however, staff doesn't know that this is entirely accurate. It may have been possible to locate the structure east of the well while still maintaining all required setbacks. Additionally, the written narrative states that the excessive height of the structure "better represent[s] the historical farms that were and are still common in the area". Other detached accessory structures within the RRI District / Shoreland Management District are limited in height and, in this specific case, the property owner selected a building design / structure height that would not otherwise be allowed on the subject site or on any other property in the RRI District.

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;

If the special condition or circumstance relates to unique circumstances related to the subject site (i.e., exceptional narrowness, shallowness or shape, or exceptional topographic conditions), the property owner has not indicated exactly what these circumstances may be. The written narrative does suggest that the property was larger at one point in time and later subdivided; however, this circumstance is not unique and the two parcels created through the 2006 subdivision process exceed the minimum dimensional requirements of the Shoreland Management District. The current property owner chose the location of the proposed / recently constructed detached accessory structure as well as the building design / structure height and chose to construct the structure without the required building permit or verifying zoning requirements (i.e., setbacks and height restrictions).

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

Being that detached accessory structures are allowed in the RRI District / Shoreland Management District, the requested after-the-fact Variance is not considered a use Variance.

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

The requested Variance is an after-the-fact Variance, which means that the request is based on existing conditions rather than proposed conditions. Being that staff is unclear as to the actual practical difficulty (AKA, hardship) related to this request, staff cannot say whether the property owner requested the minimum Variance needed. In this particular case, the issue of "minimum Variance" may be less relevant than if this were processed as a standard Variance request, and the Board may wish to consider whether or not the property owner had other reasonable options for the location and design of the detached accessory structure.

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

The Board has granted setback and height Variances for detached accessory structures in the Rural Residential Districts / Shoreland Management District in the distant and recent past, which may suggest that the Board has determined that the requested Variances would not be detrimental to the purposes of the Zoning Ordinance or to properties within the RRI District / Shoreland Management District. However, staff would argue that a property owner's decision to dismiss zoning regulations is detrimental to the purposes, application, and enforcement of the Chisago County Zoning Ordinance.

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 applicant 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.

While the easterly property boundary is shown to be located in a flood zone (area along the shoreline), the vast majority of the subject site and all developed areas are located entirely outside of the flood zone.

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 | <i>Given that the proposed / recently constructed detached accessory structure encroaches on the required County State Aid Highway (CSAH) setback and meets all other required setbacks and the closest neighboring dwelling is approximately 150' away, the County finds that neither the encroachment nor the height will not have any impact on the supply or light and air to adjacent properties.</i> |
| Criteria #2 | The proposed action will not unreasonably increase the congestion in the public right-of-way; |
| Finding #2 | <i>The proposed Variance will allow a detached accessory structure to encroach on the required County State Aid Highway (CSAH) setback and exceed the height of the principal structure (dwelling). The proposed / recently constructed structure is accessory to the existing dwelling and it will not change or intensify the residential use of the subject site. Therefore, the County finds that the proposed action has no correlation to the use of or congestion within the public Right-of-Way. Further, the Chisago County Engineer did not express any concern about the location of the structure in relation to Cedarcrest Trail / CSAH 8.</i> |
| Criteria #3 | The proposed action will not increase the danger of fire or endanger the public safety; |
| Finding #3 | <i>The property owner will be required to obtain an after-the-fact building permit for the proposed / recently constructed detached accessory structure, which will require that it be constructed – or reconstructed – to be in compliance with all applicable Building and Fire Codes. The County finds that being compliant with all applicable Building and Fire Codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.</i> |
| Criteria #4 | The proposed action will not unreasonably cause undue negative impact to surrounding properties; |
| Finding #4 | <i>Being that the subject site is currently developed with a dwelling and related detached accessory structures and the proposed action will not change how the property is being used and the proposed / recently constructed detached accessory structure will not encroach on the required side yard setbacks / neighboring properties, the County finds no evidence to suggest that there will be any negative impact to surrounding properties.</i> |
| Criteria #5 | The proposed action will not cause an unreasonable strain upon existing facilities and services; |
| Finding #5 | <i>The proposed action will not change or intensify the residential use of the subject site or intensify the use of / 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.</i> |

- 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 proposed / recently constructed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 I (RRI) District and the Zoning Ordinance generally allows detached accessory structures in this district when the site is developed with a principal structure and with restrictions on the total number of detached accessory structures, the height of detached accessory structures, the overall amount of accessory storage space, and in accordance with other requirements established within the ordinance, such as setbacks from property boundaries, public Right-of-Way, and the Ordinary High Water Level. The proposed / recently constructed detached accessory structure, which is necessitating this after-the-fact Variance request, has been reported by the property owner to encroach on the required 135' County State Aid Highway (CSAH) setback by approximately 62' and exceed the height of the principal structure (dwelling) by approximately 6'. While the Zoning Ordinance allows for Variances from the established setback and height requirements, the Zoning Ordinance also indicates that Variances shall be granted 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. Upon review of all application materials, the County finds that the application materials have failed to demonstrate that the request satisfies the State mandated three-factor practical difficulty standard, most specifically in terms of identifying a unique circumstance or circumstances related to the subject site which would necessitate the proposed / recently constructed detached accessory structure to encroach on the required CSAH setback and exceed the height of the dwelling. Instead, the unique circumstances cited by the property owner are found to be based on personal preferences. The County also finds that the application materials fail to demonstrate that the property owner did not have any other reasonable options for locating and designing the structure in compliance with the Chisago County Zoning Ordinance.*
- OR-
- Finding #7 *The subject site is zoned Rural Residential I (RRI) District and the Zoning Ordinance establishes minimum setback and height requirements for structures; however, the Ordinance also allows for Variances from these setback and height requirements 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. Based on the County's review of all application materials, the County finds that the proposed action is in keeping with the spirit and intent of Chisago County's official land use controls and satisfies the State mandated three-factor practical difficulty standard of uniqueness, reasonableness, and essential character.*

STAFF RECOMMENDATION

Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff reluctantly does not support the request for after-the-fact Variance and recommends denial** and has prepared a resolution for the Board's consideration. Staff's recommendation is based on the comments included in the Variance Analysis section (shown in *italics*) along with Finding of Fact 7 (shown in *red italics*).

Alternatively, should the Board determine that the request for after-the-fact Variance satisfies the State mandated practical difficulty standard and the Board adopts Findings of Fact (all those Findings shown in *black italics and excluding the Finding shown in red italics*) to support approval of the request for after-the-fact Variance, staff encourages the Board to consider the following conditions of approval:

1. This approval grants the following after-the-fact Variances:
 - a. An approximate 62' Variance allowing for the proposed / recently constructed detached accessory structure to be approximately 73' from the centerline of Cedarcrest Trail / CSAH 8. The structure shall meet all other required setbacks.
 - b. A Variance allowing the proposed / recently constructed detached accessory structure to exceed the height of the principal structure (dwelling) by approximately 6'.
2. The permit holder shall remove no fewer than three detached accessory structures from the property, leaving a maximum of two detached accessory structures, and the remaining detached accessory structures shall not exceed a cumulative area of 2,000 square feet. Further, the structures which are to be removed shall be removed within six months of Variance approval.
3. The permit holder shall submit an after-the-fact building permit application for construction of the detached accessory structure within 30 days of Variance approval. No further construction shall be allowed until a building permit has been issued.
4. The exterior appearance and color of the proposed / recently constructed detached accessory structure shall match as close as possible the exterior material, appearance, and color of the dwelling.
5. The second story of the proposed / recently constructed detached accessory structure shall be used for personal storage space only and shall not be used for habitable space / living quarters, unless and until it can be done in compliance with the Chisago County Zoning Ordinance.

OPTIONS

1. **Approve** the after-the-fact Variance based on the Findings of Fact and conditions as presented or amended. *Note: this option will require the Board to adopt all draft Findings shown in black italics.*
2. **Deny** the after-the-fact Variance based on the Findings of Fact presented or amended. *Note: this option will require the Board to adopt draft Findings #1 - #6 shown in black italics and draft Finding #7 shown in red italics or as amended.*
3. **Table** action to allow for further review and consideration. The current review period expires on April 2, 2024, which allows further review and consideration at the Board's March 28, 2024 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0202, a resolution denying an after-the-fact Variance allowing for a recently constructed detached accessory structure to encroach on the required County State Aid Highway setback and to exceed the height of the principal structure on property located at 44019 Cedarcrest Trail / CSAH 8 in Fish Lake Township, as presented or amended.

If the Board chooses to approve the request for after-the-fact Variance, staff has prepared an alternate resolution which includes Findings of Fact to support approval as well as conditions of approval for the Board's consideration.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Site plan
 - d. Building plans
 - e. Impervious surface calculation worksheets
2. Site photos
3. Aerial photo (1) – subject site
4. Aerial photo (2) – vicinity map
5. Draft Resolution No. BOAA2024-0202 (denial)
6. Draft Resolution No. BOAA2024-0202 (approval)



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 2024-0081

Township Fish Lake S/T/R 22 / 36 / 022 PID# 03.00302, 01

Project Address 44019 CEDAR CREST TRAIL, HARRIS, MN, 55032

Property Owner(s) Christopher Perry

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) _____

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) VARIANCE ON GARAGE LOCATION & HEIGHT FROM COUNTY ROAD + PRIMARY DWELLING

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

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

Chris
Applicant Signature

1-24-24

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	\$ <u> </u>	Application Received	<u>1-24-24</u>
Recording Fee	\$ <u> </u>	Application Complete	<u>2-2-24</u>
Plat Fee – No Road(s) / With Road(s)	\$ <u> </u>	☒ 60/ 120 Day Review Period	<u>4-2-24</u>
Septic Compliance Fee	\$ <u> </u>	Extended Review Period	_____
Wetland Fee	\$ <u> </u>		
TOTAL FEE	\$ <u>NAIVED (FEES WERE PAID W/ PERMIT # 2023-2493)</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Fish Lake S/T/R 22-36-022 PID# 03.00302.01

Project Address 44019 Cedarcrest Trail, Harris, MN, 55032

Property Owner(s) CHRISTOPHER PERRY

Mailing Address (If Different from Project Address) _____

Phone# _____ Email _____

Applicant(s) _____

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) VARIANCE on GARAGE on Distance
from County Road + Also the Height of the Building

[Signature]

Applicant Signature

1-24-24
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 FEB 29, 2024

Date of Township Presentation FEB 12, 2024

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

[Signature] [Signature]

Chisago County Planning & Zoning

313 N Main Street

Center City, MN, 55012

Letter of Intent for Zoning Variance For:

Christopher Perry

44019 Cedarcrest Trail,

Harris, MN, 55032

ZONING: PARCEL ID#: 03.00302.01

Dear Planning & Zoning Members,

Request and Location:

The desired request is to reduce the required front yard setback to the center of CedarCrest Trail from 135 feet to approximately 73 Feet for a proposed detached 28x48 garage. Along with the desired detached structure to be taller than the primary dwelling by approximately 6 feet. The property is in the Fish Lake Township and belongs to the Wickland Estates and is zoned rural residential. The property includes an existing single-family dwelling built in 1960 and is located in the shoreland district of Horseshoe Lake. The property was originally purchased as one property, but at some point, was spilt into two individual parcels. The general character of the area is primarily rural residential and includes many lakes which inhabits small and unique lots /properties in the area. Therefore, the presenting of this variance request to reduce the required centerline setback is due to the uniqueness of my property above. The desired location is in the southwest corner of the property and meets all other desired zoning setbacks along all other property lines.

The subject property is a result of the following conditions:

- 1.) The requested variances by reason of exceptional narrowness, shallowness or shape of a specific lot or by reason of exceptional topographic conditions deprives me the property-owner of rights and privileges enjoyed by other property owners in the same zoning district. The specific spot desired or in the vicinity of this desired spot, is in my own opinion the only location the garage could be placed within specs uncontrolled by me the homeowner. The specs / codes desired by the County of distances from utilities, septic, well and other structures limits the location given for this unique property and would cause several other codes violations, if placed elsewhere. I

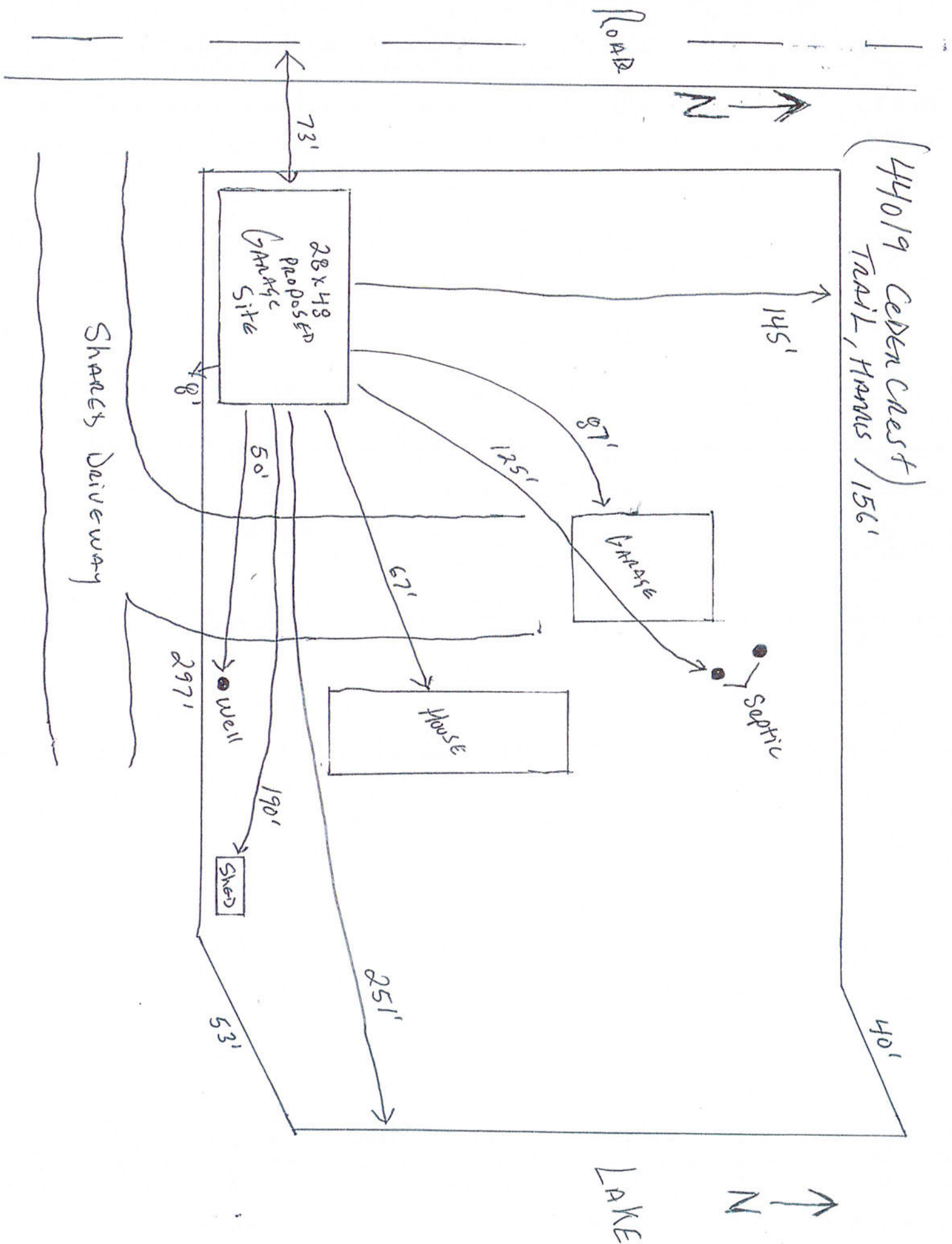
also have an uncontrolled issue with my driveway, which is shared by the existing property to the south of the above address and the majority of it is on the other property owner's land.

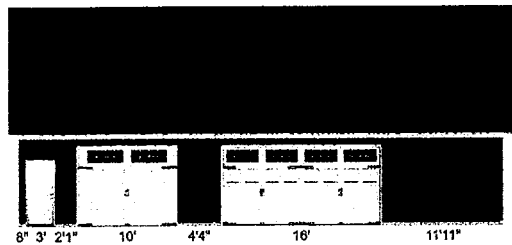
- 2.) The requested variances do not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same zoning district in which the subject property is located. I believe that other properties in the same zoning district have been granted variances for similar impervious zoning variances.
- 3.) The grant of the variances will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located. The use is within the building setbacks and for private use only. It will improve the property and its value by creating a functional recreation and gathering space. It will improve the look of the property by removing vehicles, boats or other possible eyesores for the surrounding property owners. It will also add value to the County of Chisago for potential future homeowners or builders new to the area. It will fit into the surrounding area with its barn like appearance with surrounding farms in the area. It should also be noted that this property at one time had a barn that was a staple for the horseshoe lake community for many years and I believe this building would bring back some of that heritage to the Wickland Estates, again.
- 4.) I believe the requested variances would be consistent with the spirit and heritage in the area for the purpose of the Chisago County and the Fish Lake township Comprehensive Plan to better the future of this County. With the approval, I, the owner of this property will be able to enjoy my home and recreational space that would be consistent in the residential zoning, and other approved variance applicants in this area.
- 5.) Also considering for these variances the property and proposed garage location does not impair any light or air adjacent to neighboring properties caused by the location or the height of it. It does not increase any congestion in a public right-of-way. It also does not increase a fire danger or public safety, nor does it have a negative impact on surrounding properties. It does not have any strain on existing facilities and services and has no negative effects on any fiscal impacts to the County caused by its location or height.
- 6.) The request for a height variance of the desired structure is needed due to the uniqueness of the roof trusses. The desired building structure is a gambrel roof (Barn) to better represent the historical farms that were and are still common in the area. This property had a similar structure that was a staple of Horseshoe Lake community for many years. Due to this feature the peak is approximately 6 feet taller than the primary dwelling. It should be noted that the side walls are both the same at 10 feet in height, just the pitch of the roofs are different. This feature is to add storage all with-in staying compliant to all other codes of square footage and detached structures per property.

- 7.) It should be noted that the other structures on the property will be taken down to meet all codes and be compliant per the Chisago County board of Commissions in a timely manner.
- 8.) With the facts above, I am asking and hoping for your approval for the Variance to the Zoning setbacks along with the height restrictions set forth by the County. If these variances are accepted the new structure will match the existing dwelling with the same roof, siding and window colors and materials. Thank you for time and consideration in this matter.

Sincerely,
Christopher Perry

(44019 Cedar Crest Trail, Harris / 156'





SIDEWALL C

- Mastercraft® 36W x 80H Primed Steel 6-Panel
- 16X8 White Designer Panel SQ24 Window EZ Set Torsion Spring
- 10X8 White Designer Panel SQ24 Window EZ Set Torsion Spring



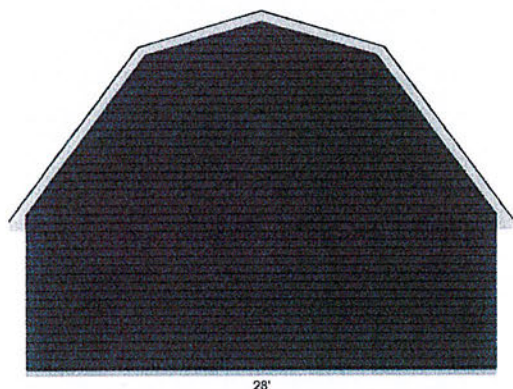
ENDWALL A

- 48"W x 48"H JELD-WEN® Vinyl Slider
- 48"W x 48"H JELD-WEN® Vinyl Slider
- 48"W x 48"H JELD-WEN® Vinyl Slider

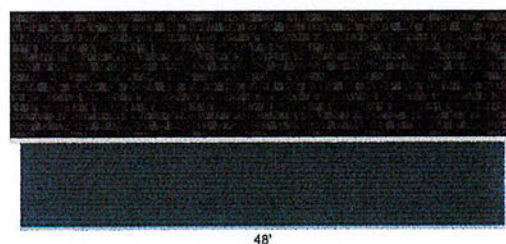
Dimensions

Wall Configurations

*Some items like wainscot, gutter, gable accents, are not displayed if selected.



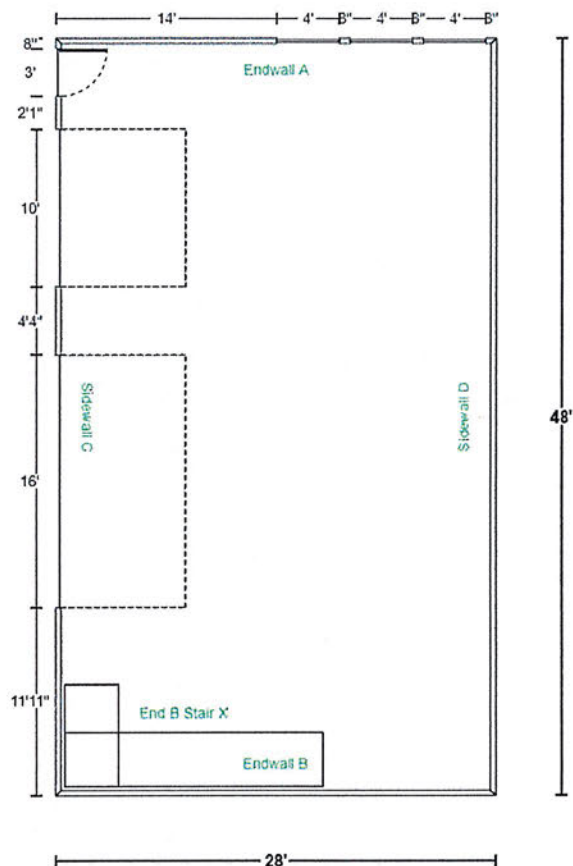
ENDWALL B



SIDEWALL D

Date: 11/22/2023 - 1:05 PM
Design ID: 315459946825
Estimate ID: Estimate Unavailable

MENARDS
Design & Buy™
GARAGE



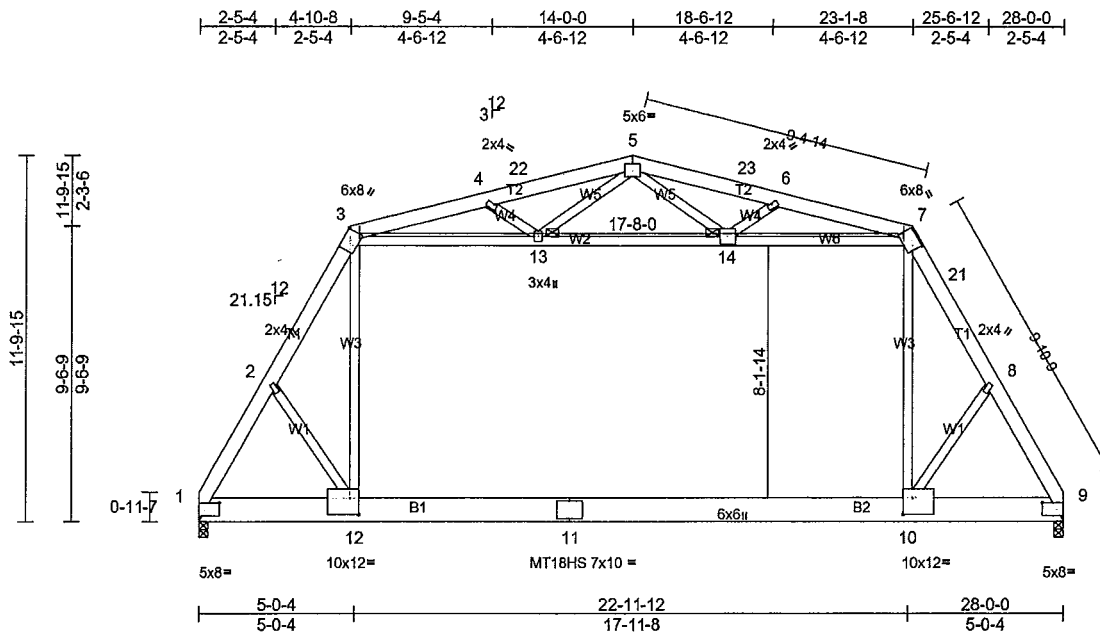
Job	Truss	Truss Type	Qty	Ply	Job Reference (optional)
QTRVA0014192	GM1	GAMBREL ATTIC	6	1	

Midwest Manufacturing, Eau Claire, WI

Run: 8.61 S Aug 11 2022 Print: 8.610 S Aug 11 2022 MiTek Industries, Inc. Thu Jan 19 16:23:47

Page: 1

ID: TlhRSeblzKpOJR6D7Jb73yNyE6-IL9TP5iz2heCT74swzI2eipP0V3BNEA1Y0ocbwztkcA



Scale = 1:66.1

Plate Offsets (X, Y): [1:0-5-7,0-2-8], [7:0-1-12,0-3-0], [9:0-5-7,0-2-8], [10:0-3-8,0-6-8], [12:0-3-8,0-6-8]

Loading	(psf)	Spacing	2-0-0	CSI		DEFL	In	(loc)	I/defl	L/d	PLATES	GRIP
TCLL (roof)	42.0	Plate Grip DOL	1.15	TC	0.31	Vert(LL)	-0.37	10-12	>919	240	MT20	197/144
Snow (Ps/Pg)	12.2/60.0	Lumber DOL	1.15	BC	0.44	Vert(CT)	-0.46	10-12	>724	180	MT18HS	244/190
TCDL	7.0	Rep Stress Incr	YES	WB	0.41	Horz(CT)	0.02	9	n/a	n/a		
BCLL	0.0*	Code	IRC2018/TPI2014	Matrix-MS		Attic	-0.33	10-12	>653	360		
BCDL	10.0											
Weight: 245 lb FT = 15%												

LUMBER

TOP CHORD 2x6 SPF No.2
BOT CHORD 2x10 SP 2400F 2.0E
WEBS 2x4 SPF Stud *Except* W6,W3,W2:2x4 SPF No.2

REACTIONS (lb/size) 1=1535/0-3-8, (min. 0-1-12), 9=1535/0-3-8, (min. 0-1-12)
Max Horiz 1=-165 (LC 10)
Max Grav 1=2077 (LC 3), 9=2077 (LC 3)

FORCES

(lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.
TOP CHORD 1-2=-2666/0, 2-3=-2539/0, 7-21=-2381/0, 8-21=-2539/0, 8-9=-2666/0, 3-4=-2999/273, 4-22=-2359/186, 5-22=-2280/193,
5-23=-2284/193, 6-23=-2363/186, 6-7=-3006/272
BOT CHORD 1-12=-49/1249, 11-12=0/1259, 10-11=0/1259, 9-10=0/1208
WEBS 3-13=-329/2077, 13-14=-495/988, 7-14=-329/2077, 3-12=0/1440, 7-10=0/1440, 5-13=-51/748, 5-14=-51/748,
4-13=-828/140, 6-14=-828/140

NOTES

- Unbalanced roof live loads have been considered for this design.
- Wind: ASCE 7-16; Vult=115mph (3-second gust) Vasd=91mph; TCDL=4.2psf; BCDL=6.0psf; h=25ft; Cat. II; Exp B; Enclosed; MWFRS (envelope) exterior zone and C-C Exterior (2) zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.60
- ** TCLL: ASCE 7-16; Pr=42.0 psf (roof LL: Lum DOL=1.15 Plate DOL=1.15); Pg=60.0 psf; Ps= varies (12.2 psf Lum DOL=1.15 Plate DOL=1.15) see load cases; Is=1.0; Rough Cat B; Fully Exp.; Ce=0.9; Cs=0.29, 1.00, 1.00, 0.29; Ct=1.10
- Roof design snow load has been reduced to account for slope.
- Unbalanced snow loads have been considered for this design.
- All plates are MT20 plates unless otherwise indicated.
- The Fabrication Tolerance at joint 7 = 10%
- This truss has been designed for a 10.0 psf bottom chord live load nonconcurrent with any other live loads.
- * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-06-00 tall by 2-00-00 wide will fit between the bottom chord and any other members.
- Ceiling dead load (5.0 psf) on member(s). 3-13, 13-14, 7-14; Wall dead load (5.0psf) on member(s). 3-12, 7-10
- Bottom chord live load (40.0 psf) and additional bottom chord dead load (0.0 psf) applied only to room. 10-12
- This truss is designed in accordance with the 2018 International Residential Code sections R502.11.1 and R802.10.2 and referenced standard ANSI/TPI 1.
- NOTE: DUE TO THE OVERALL LENGTH TO DEPTH RATIO OF THE ROOM, THE FLOOR MAY EXHIBIT OBJECTIONABLE VIBRATION AND OR BOUNCE. BUILDING DESIGNER TO CONSIDER PROVIDING MEANS TO DAMPEN THESE EFFECTS. TRUSS DESIGN SHALL BE REVIEWED AND APPROVED PRIOR TO MANUFACTURING.
- Attic room checked for L/360 deflection.

LOAD CASE(S)

- Standard
1) Dead + Snow (balanced): Lumber Increase=1.15, Plate Increase=1.15
Uniform Loads (lb/ft)

EXISTING 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
.97	x 43,560	= 42253.2

OR	Total area of parcel in square feet

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

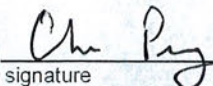
Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling	28 x 36	=	1008
garage	20 x 22	=	440
deck	14 x 15	=	210
patio		=	
sidewalk		=	
driveway	-	=	1828
other; list:			
shed	10 x 14	=	140
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			3626

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

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:			
sidewalk	3 x 20	=	60
		=	
TOTAL OTHER ITEMS			60

Calculate:

Total from "Residential Structures":	3626	+
Total from "Agricultural Structures":		+
Total from "Other Items":	60	+
Total square footage of coverage:	3686	=
(divide by total area of parcel, above)		/
TOTAL IMPERVIOUS SURFACE	8.72	%

signature	
date	
corresponding permit number	

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
.91	x 43,560	= 42253.2

OR

Total area of parcel
in square feet

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	28 x 36	=	1008
garage	20 x 22	=	440
deck	14 x 15	=	210
patio		=	
sidewalk		=	
driveway	—	=	1820
other; list:			
Shed	10 x 14	=	140
GARAGE *	28 x 48	=	1344
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			4970

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

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:			
Sidewalk	3 x 20	=	60
		=	
TOTAL OTHER ITEMS			60

Calculate:

Total from "Residential Structures":	4970	+
Total from "Agricultural Structures":		+
Total from "Other Items":	60	+
Total square footage of coverage:	5030	=
(divide by total area of parcel, above)		/
		=
TOTAL IMPERVIOUS SURFACE	11.90	%

signature

date

corresponding permit number









Christopher Perry – Property owner Christopher Perry is requesting an after-the-fact Variance in order to allow a detached accessory structure closer to the centerline of a County State Aid Highway than required and to allow said structure to exceed the height of the dwelling in the Rural Residential I (RR1) District. The .97± acre subject site is located at 44019 Cedarcrest Trail / CSAH 8 in Fish Lake Township, S22, T36, R22 (PID 03.00302.01).

Perry Property - 





Christopher Perry – Property owner Christopher Perry is requesting an after-the-fact Variance in order to allow a detached accessory structure closer to the centerline of a County State Aid Highway than required and to allow said structure to exceed the height of the dwelling in the Rural Residential I (RRI) District. The .97± acre subject site is located at 44019 Cedarcrest Trail / CSAH 8 in Fish Lake Township, S22, T36, R22 (PID 03.00302.01).

Perry Property - 



RESOLUTION NO. BOAA2024-0202

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
DENYING AN AFTER-THE-FACT VARIANCE ALLOWING FOR A RECENTLY CONSTRUCTED DETACHED
ACCESSORY STRUCTURE TO ENCROACH ON THE REQUIRED COUNTY STATE AID HIGHWAY SETBACK
AND TO EXCEED THE HEIGHT OF THE PRINCIPAL STRUCTURE ON PROPERTY LOCATED AT
44019 CEDARCREST TRAIL / CSAH 8 IN FISH LAKE TOWNSHIP**

WHEREAS, property owner Christopher Perry submitted an application dated received January 24, 2024 and considered complete on February 2, 2024 for an after-the-fact Variance to Zoning Ordinance Section 4.08.2 Accessory Structures and Uses in UR, RRI, and RRII Districts and Section 5.15 Dimensional Standards; and

WHEREAS, prior to application submission, the property owner began construction of a detached accessory structure approximately 73' from the centerline of Cedarcrest Trail / CSAH 8 where the required setback is 135' and which exceeds the height of the principal structure (dwelling) by approximately 6' in a district where detached accessory structures are not allowed to exceed the height of the principal structure; and

WHEREAS, the .97± acre subject site is located in the Rural Residential I (RRI) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 03.00302.01

Lot One (1), Block One (1), Wicklund Horseshoe Lake Estates, Chisago County, Minnesota.

WHEREAS, notice was provided and on February 29, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner, 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 *Given that the proposed / recently constructed detached accessory structure encroaches on the required County State Aid Highway (CSAH) setback and meets all other required setbacks and the closest neighboring dwelling is approximately 150' away, the County finds that neither the encroachment nor the height will not have any impact on the supply or light and 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 Variance will allow a detached accessory structure to encroach on the required County State Aid Highway (CSAH) setback and exceed the height of the principal structure (dwelling). The proposed / recently constructed structure is accessory to the existing dwelling and it will not change or intensify the residential use of the subject site. Therefore, the County finds that the proposed action has no correlation to the use of or*

congestion within the public Right-of-Way. Further, the Chisago County Engineer did not express any concern about the location of the structure in relation to Cedarcrest Trail / CSAH 8.

- Criteria #3** The proposed action will not increase the danger of fire or endanger the public safety;
Finding #3 *The property owner will be required to obtain an after-the-fact building permit for the proposed / recently constructed detached accessory structure, which will require that it be constructed – or reconstructed – to be in compliance with all applicable Building and Fire Codes. The County finds that being compliant with all applicable Building and Fire 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 with a dwelling and related detached accessory structures and the proposed action will not change how the property is being used and the proposed / recently constructed detached accessory structure will not encroach on the required side yard setbacks / neighboring properties, the County finds 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 action will not change or intensify the residential use of the subject site or intensify the use of / 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 proposed / recently constructed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 I (RRI) District and the Zoning Ordinance generally allows detached accessory structures in this district when the site is developed with a principal structure and with restrictions on the total number of detached accessory structures, the height of detached accessory structures, the overall amount of accessory storage space, and in accordance with other requirements established within the ordinance, such as setbacks from property boundaries, public Right-of-Way, and the Ordinary High Water Level. The proposed / recently constructed detached accessory structure, which is necessitating this after-the-fact Variance request, has been reported by the property owner to encroach on the required 135’ County State Aid Highway (CSAH) setback by approximately 62’ and exceed the height of the principal structure (dwelling) by approximately 6’. While the Zoning Ordinance allows for Variances from*

the established setback and height requirements, the Zoning Ordinance also indicates that Variances shall be granted 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. Upon review of all application materials, the County finds that the application materials have failed to demonstrate that the request satisfies the State mandated three-factor practical difficulty standard, most specifically in terms of identifying a unique circumstance or circumstances related to the subject site which would necessitate the proposed / recently constructed detached accessory structure to encroach on the required CSAH setback and exceed the height of the dwelling. Instead, the unique circumstances cited by the property owner are found to be based on personal preferences. The County also finds that the application materials fail to demonstrate that the property owner did not have any other reasonable options for locating and designing the structure in compliance with the Chisago County Zoning Ordinance.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variance is hereby denied based on the findings provided herein.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of February, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator

RESOLUTION NO. BOAA2024-0202

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
APPROVING AN AFTER-THE-FACT VARIANCE ALLOWING FOR A RECENTLY CONSTRUCTED DETACHED
ACCESSORY STRUCTURE TO ENCROACH ON THE REQUIRED COUNTY STATE AID HIGHWAY SETBACK
AND TO EXCEED THE HEIGHT OF THE PRINCIPAL STRUCTURE ON PROPERTY LOCATED AT
44019 CEDARCREST TRAIL / CSAH 8 IN FISH LAKE TOWNSHIP**

WHEREAS, property owner Christopher Perry submitted an application dated received January 24, 2024 and considered complete on February 2, 2024 for an after-the-fact Variance to Zoning Ordinance Section 4.08.2 Accessory Structures and Uses in UR, RRI, and RRII Districts and Section 5.15 Dimensional Standards; and

WHEREAS, prior to application submission, the property owner began construction of a detached accessory structure approximately 73' from the centerline of Cedarcrest Trail / CSAH 8 where the required setback is 135' and which exceeds the height of the principal structure (dwelling) by approximately 6' in a district where detached accessory structures are not allowed to exceed the height of the principal structure; and

WHEREAS, the .97± acre subject site is located in the Rural Residential I (RRI) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 03.00302.01

Lot One (1), Block One (1), Wicklund Horseshoe Lake Estates, Chisago County, Minnesota.

WHEREAS, notice was provided and on February 29, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner, 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 *Given that the proposed / recently constructed detached accessory structure encroaches on the required County State Aid Highway (CSAH) setback and meets all other required setbacks and the closest neighboring dwelling is approximately 150' away, the County finds that neither the encroachment nor the height will not have any impact on the supply or light and 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 Variance will allow a detached accessory structure to encroach on the required County State Aid Highway (CSAH) setback and exceed the height of the principal structure (dwelling). The proposed / recently constructed structure is accessory to the existing dwelling and it will not change or intensify the residential use of the subject site. Therefore, the County finds that the proposed action has no correlation to the use of or*

congestion within the public Right-of-Way. Further, the Chisago County Engineer did not express any concern about the location of the structure in relation to Cedarcrest Trail / CSAH 8.

- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;
Finding #3 *The property owner will be required to obtain an after-the-fact building permit for the proposed / recently constructed detached accessory structure, which will require that it be constructed – or reconstructed – to be in compliance with all applicable Building and Fire Codes. The County finds that being compliant with all applicable Building and Fire 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 with a dwelling and related detached accessory structures and the proposed action will not change how the property is being used and the proposed / recently constructed detached accessory structure will not encroach on the required side yard setbacks / neighboring properties, the County finds 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 action will not change or intensify the residential use of the subject site or intensify the use of / 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 proposed / recently constructed detached accessory structure will not have any negative fiscal impact on the County or school district. The County finds that the structure will increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 I (RRI) District and the Zoning Ordinance establishes minimum setback and height requirements for structures; however, the Ordinance also allows for Variances from these setback and height requirements 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. Based on the County’s review of all application materials, the County finds that the proposed action is in keeping with the spirit and intent of Chisago County’s official land use controls and satisfies the State mandated three-factor practical difficulty standard 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 after-the-fact Variance is hereby **approved**, subject to the following conditions:

1. This approval grants the following after-the-fact Variances:
 - a. An approximate 62' Variance allowing for the proposed / recently constructed detached accessory structure to be approximately 73' from the centerline of Cedarcrest Trail / CSAH 8. The structure shall meet all other required setbacks.
 - b. A Variance allowing the proposed / recently constructed detached accessory structure to exceed the height of the principal structure (dwelling) by approximately 6'.
2. The permit holder shall remove no fewer than three detached accessory structures from the property, leaving a maximum of two detached accessory structures, and the remaining detached accessory structures shall not exceed a cumulative area of 2,000 square feet. Further, the structures which are to be removed shall be removed within six months of Variance approval.
3. The permit holder shall submit an after-the-fact building permit application for construction of the detached accessory structure within 30 days of Variance approval. No further construction shall be allowed until a building permit has been issued.
4. The exterior appearance and color of the proposed / recently constructed detached accessory structure shall match as close as possible the exterior material, appearance, and color of the dwelling.
5. The second story of the proposed / recently constructed detached accessory structure shall be used for personal storage space only and shall not be used for habitable space / living quarters, unless and until it can be done in compliance with the Chisago County Zoning Ordinance.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of February, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST:

Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance to Enlarge and Intensify a Non-Conforming Structure Closer to the Ordinary High Water Level than Required
 32770 N. Center Court, Chisago Lake Township
 DATE: February 29, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing the enlargement and intensification of a non-conforming structure closer to the Ordinary High Water Level (OHWL) than required in the Rural Residential II (RRII) District / Shoreland Management District.

SITE & APPLICATION INFORMATION

Applicant(s):	Teresa & Scott Simmons
Property Owner(s):	Teresa M. Simmons Trust
Property Address:	32770 N. Center Court Chisago Lake Township
General Location:	Section 22, Township 34, Range 20 Chi-Gak-Wa Shores Subdivision
PID:	02.01084.00
Property Area:	.31± 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:	January 24, 2024
Date Application Complete:	February 2, 2024
60-Day Review Period:	April 2, 2024

BACKGROUND

Applicants Teresa & Scott Simmons wish to replace an existing screen porch with a slightly enlarged three season porch on property located at 32770 N. Center Court in Chisago Lake Township. Based on the County's GIS Viewer, the existing structure is located as close as approximately 36' from the OHWL of North Center Lake, where the required setback is 75'.



SITE ANALYSIS

The .31± acre property was platted as Lot 13, Chi-Gak-Wa Shores in 1955 and is generally located on the northeastern shore of North Center Lake on North Center Court. Per the attached survey, the subject site is approximately 80' wide at the shoreline and approximately 70' wide at the roadway, and, per the County's GIS Viewer, the subject site has an approximate depth of 166' as measured from the OHWL to the road Right-of-Way / easterly property boundary.

Topography of the subject site includes elevations ranging from 898' near the shoreline to 918' near the road Right-of-Way / easterly property boundary.

The septic system was inspected and found to be compliant in June 2022, which means that no compliance inspection will be required in conjunction with the current Variance request.

PROPOSAL ANALYSIS

The attached application materials explain and show that the Simmons' would like to replace their existing two season screen porch with a three season porch. The existing structure is reported to be rotting and beyond repair. The north and west sides of the existing structure, as shown on the attached building plans, are angled, and, as part of the proposed replacement, the applicants wish to square off the structure. The existing structure is shown to be approximately 111 sf in size and the proposed structure is shown to be 128 sf (8' x 16'). Because the applicants wish to slightly enlarge and intensify the structure, Variance approval is required.

While the northwesterly corner of the proposed structure will be constructed closer to the OHWL than it is currently, it will not be located any closer to the OHWL than the southwesterly corner. In other words, the proposed expansion will not exacerbate the existing non-conforming setback. The attached survey shows that the existing dwelling meets and exceeds both side yard setback requirements. Because the proposed structure does not extend more northerly or southerly than the dwelling, this means that the proposed structure will meet and exceed both side yard setbacks as well. In other words, the proposed structure will not be located any closer to neighboring properties than the existing structure.

The attached impervious surface calculation worksheet shows an overall amount of 31% impervious surface coverage. The applicant verbally explained that the overall amount of impervious surface will not be increasing as part of the proposed project; however, staff suspects that squaring off the structure will create a slight increase. Because the applicant has not indicated an increase and it was not included in the Variance request, staff has included a recommended condition of approval which states that the property is not allowed to increase its current amount of impervious surface, which means that the applicants *may* be required to eliminate impervious surface elsewhere on the property so as not to exceed 31%.

The table below provides a comparison of minimum dimensional standards for the RRII District and Shoreland Management District as well as corresponding information for the proposed Variance, with the Variance request shown in red.

	RRII District / Shoreland Management District Standards	Proposed
Road Setback	40' to Road Right-of-Way	100'+ to Road Right-of-Way
OHWL Setback	75'	Approximately 36' to OHWL

Side Yard Setback	5' for Detached Garage	20'+ from the north and south property boundaries
Impervious Surface Coverage	25%	31% (no change reported from current amount)

REVIEW PROCESS

The Technical Review Committee met with Scott Simmons on February 14, 2024. No concerns were identified.

The Chisago Lake Town Board considered the request on February 20, 2024 and recommended approval with no conditions and the comment that it's "basically the same footprint".

The State mandated 60-day review period expires on April 2, 2024.

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 applicants have not cited any exceptional or extraordinary circumstances which apply to their property. However, staff suggests that pre-existing development is an exceptional circumstance related to this property, being that the property was platted and developed prior to the County's adoption of official land use controls.

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 applicants of rights commonly enjoyed by other RRII District / Shoreland Management District properties. Properties located in the RRII District / Shoreland Management District have the right to be developed with dwellings and related accessory structures in compliance with the Zoning and Shoreland Management Ordinances, and the subject site has been developed with a dwelling and related accessory structures. Further, as a non-conforming structure, the property owner has a statutory right to maintain or even replace the structure in its current location and size; however, the applicants are choosing to seek Variance approval in order to enlarge and intensify the structure.

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;

The circumstance of pre-existing development is not a result of actions of the current property owner or any previous owners under the current Zoning and Shoreland Management Ordinances. The subject site was platted and developed well before the County adopted official land use controls.

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

Three season porches are an allowable use in the RRII District / Shoreland Management District; therefore, the Variance is not considered a use Variance.

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

Being that pre-existing development is the unique circumstance / hardship related to the subject site, the applicants have no ability to adjust their request to lessen the requested Variance. However, the applicants have demonstrated that their request is reasonable in that they are not proposing to construct the proposed three season porch any closer to the OHWL than the existing non-conforming two season porch.

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

The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance related to the property, and when it will not alter the essential character of the surrounding area. Staff believes that the request is reasonable in that three season porches are a reasonable use in this district and the applicants are not constructing the proposed structure any closer to the OHWL than the existing structure; that there is a unique circumstance in that the non-conforming property was platted and developed well before the County adopted official land use controls; and, that the proposed structure fits the essential character of the residential lakeshore neighborhood. Further, staff does not believe that the Variance, if approved, would be detrimental to other properties in the RRII District / Shoreland Management District.

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 applicants 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.

While the westerly 40' - 65' of the subject site is located within a flood district, the proposed structure will be located entirely 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 structure will be situated in a manner that complies with the required side yard setbacks so as not to impair an adequate supply of light and air to adjacent properties. The westerly property boundary is adjacent to a public body of water and the easterly property boundary is adjacent to a public Right-of-Way, where there is no impact on the supply of light and air to other properties.*

Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
Finding #2	<i>The proposed structure is accessory to the principal structure (dwelling) and will not have any direct impact on the number of occupants residing in the dwelling. Therefore, the County finds that the proposed structure will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding roadways.</i>
Criteria #3	The proposed action will not increase the danger of fire or endanger the public safety;
Finding #3	<i>The property owner will be required to obtain a building permit prior to construction of the proposed structure 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.</i>
Criteria #4	The proposed action will not unreasonably cause undue negative impact to surrounding properties;
Finding #4	<i>Being that the proposed structure is replacing a similarly sized existing structure and because the proposed structure will replace a deteriorating structure and because the proposed structure is not being located any closer to neighboring properties (to the north and south) than the existing structure, the County does not find any evidence that the proposed structure will create any negative impact to surrounding properties.</i>
Criteria #5	The proposed action will not cause an unreasonable strain upon existing facilities and services;
Finding #5	<i>The proposed structure will not create additional bedrooms and will not increase the number of occupants in the existing dwelling or the need for additional facilities and services; therefore, the County finds that the proposed structure will not create any strain or increased impact upon existing facilities and services.</i>
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	<i>There is no evidence to suggest that the proposed structure will have any negative fiscal impact on the County or school district. The County finds that the proposed structure may increase the property value which will, in fact, create a positive fiscal impact for both the County and school district.</i>
Criteria #7	The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
Finding #7	<i>The intent of Zoning Ordinance Section 4.03 is to regulate non-conforming buildings, structures, and uses, and the intent of Shoreland Management Ordinance Section 5.21 is to regulate the setback of structures and sewage treatment systems from the Ordinary High Water Level (OHWL). While the proposed structure is non-conforming in that it will encroach on the OHWL, the County finds that it will not exacerbate the existing OHWL setback encroachment. Additionally, the Zoning Ordinance allows for Variances, including setback 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. The County finds that the request is reasonable in</i>

that three season porches are a reasonable use in the Rural Residential II (RRII) District / Shoreland Management District and the applicants are not constructing the proposed structure any closer to the OHWL than the existing structure; that there is a unique circumstance in that the non-conforming property was platted and developed well before the County adopted official land use controls; and, that the proposed structure fits the essential character of the residential lakeshore neighborhood.

STAFF RECOMMENDATION

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 requested Variance 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 for the enlargement and intensification of an existing two season porch which is located closer to the Ordinary High Water Level (OHWL) than required by the Chisago County Shoreland Management Ordinance. This approval allows for the two season porch to be intensified to a three season porch and enlarged by squaring off the north and west walls of the structure, but it shall not be located any closer to the OHWL than the existing structure. The structure shall meet all other required setbacks.
2. The structure shall be constructed in general conformance with the application materials, including location and dimensions, dated received January 24, 2024. Any significant deviation from the approved request, 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 permit holder shall obtain a building permit prior to construction and, further, the structure shall comply with all applicable codes and regulations except as permitted by this Variance.
4. The County acknowledges that the amount of impervious surface coverage was 31% at time of Variance application, which exceeds the maximum allowable amount of 25%. With this approval, the overall amount of impervious surface coverage shall remain at or less than 31%. This condition shall be verified at time of building permit application.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

OPTIONS

1. **Approve** the Variance based on the Findings of Fact and conditions as presented or amended.
2. **Deny** the Variance 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 Variance, as presented, is not consistent with the Chisago County Zoning Ordinance due to _____.
 - b. The proposed Variance will have a negative impact to surrounding properties due to _____.
 - c. The request for Variance, 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 April 2, 2024, allowing for further review and consideration at the Board's March 28, 2024 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0203, a resolution approving a Variance allowing the enlargement and intensification of a non-conforming structure closer to the Ordinary High Water Level than required on property located at 32770 N. Center Court in Chisago Lake Township, as presented or amended.

If the Board chooses to deny the request for Variance, 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. Site photos
 - d. Survey
 - e. Building plans
 - f. Impervious surface calculation worksheet
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0203 (approval)



Chisago County Department of Environmental Services

Planning & Zoning Application

Permit # 24-0080

Township Chisago S/T/R 22/034/020 PID# 02.01084.00
Project Address 32770 N Center Court Center City, Mn
Property Owner(s) Teresa Simmons Trust
Teresa m and Scott & Simmons
Mailing Address (If Different from Project Address) 971 140th LN NW Andover, Mn 55304
Phone# [REDACTED] Email [REDACTED]
Applicant(s) Scott and Teresa Simmons
Mailing Address (If Different from Project Address) 971 140th LN NW Andover, Mn 55304
Phone# [REDACTED] Email [REDACTED]

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☒ Variance
☐ Administrative Appeal

Planning Commission

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

Description of Request (Attach Separate Sheet if Necessary)

See attached

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

- ☒ Full Legal Description ☒ Detailed Site Plan ☒ Detailed Written Narrative ☒ Plat Drawings

[Signature]
Applicant Signature

1-22-24
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	\$ <u>600</u>	Application Received	<u>1-24-24</u>
Recording Fee	\$ <u>46</u>	Application Complete	<u>2-2-24</u>
Plat Fee - No Road(s) / With Road(s)	\$ _____	☒ 60 / 120 Day Review Period	<u>4-2-24</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>646</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Chisago S/T/R _____ PID# D2-01084-00
Project Address 32770 N Center Court Center City, Mn
Property Owner(s) Teresa Simmons Trust
Teresa M and Scott G Simmons
Mailing Address (If Different from Project Address) 971 140th LN NW Andover, Mn 55304
Phone# _____ Email _____
Applicant(s) Scott and Teresa Simmons
Mailing Address (If Different from Project Address) 971 140th LN NW Andover, Mn 55304
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) See attached

[Signature]
Applicant Signature

1-22-24
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 FEB 29, 2024 Date of Township Presentation FEB 20, 2024

Township Action Taken (Township Use Only)

- ☒ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

basically same footprint

Signatures of Township Officials or Authorized Personnel

[Signature] [Signature]
Wendy Reed _____

We are asking for a variance for the following:

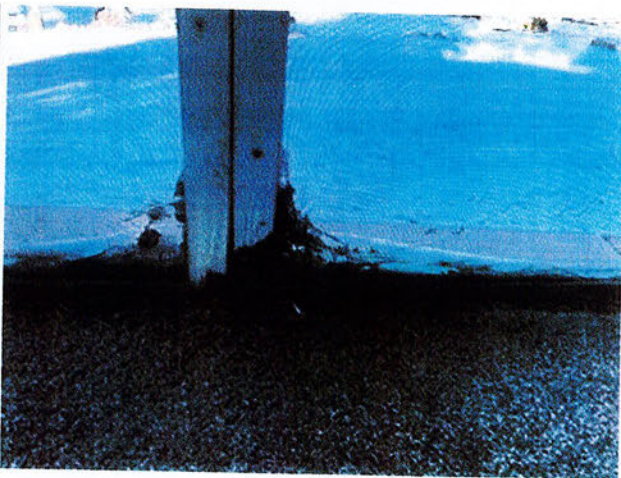
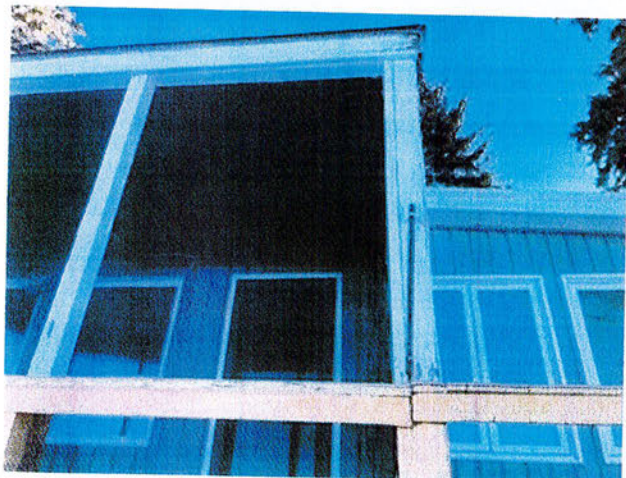
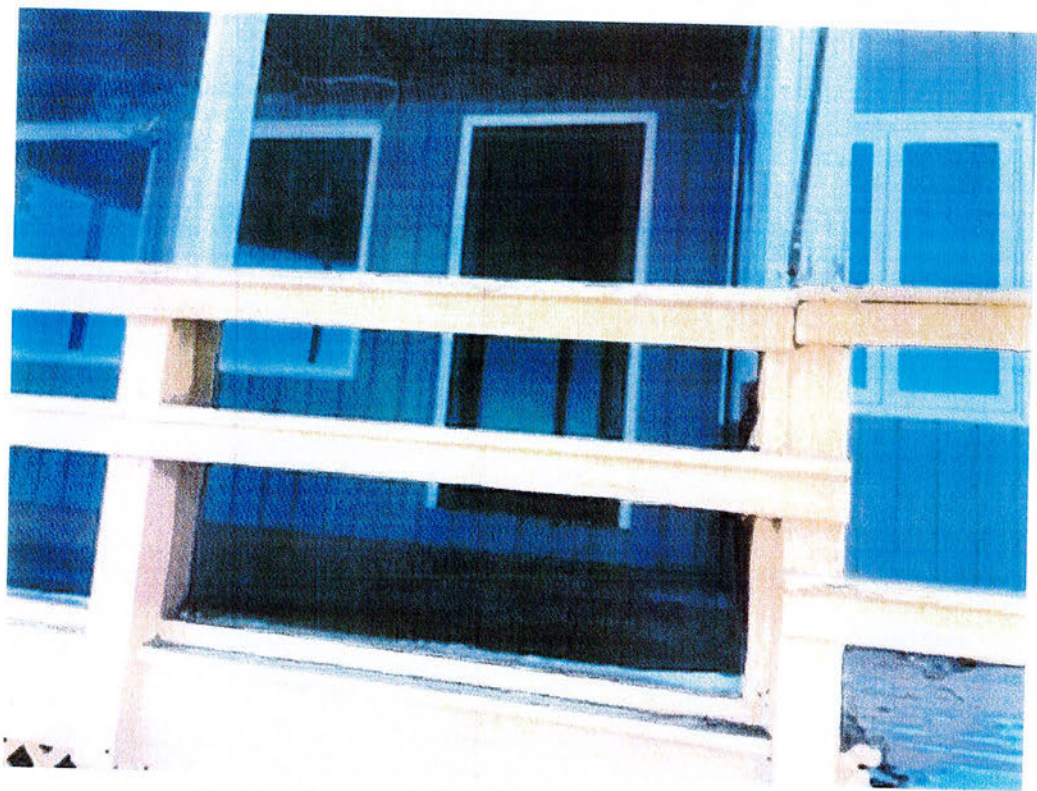
2 season existing porch to 3 season porch

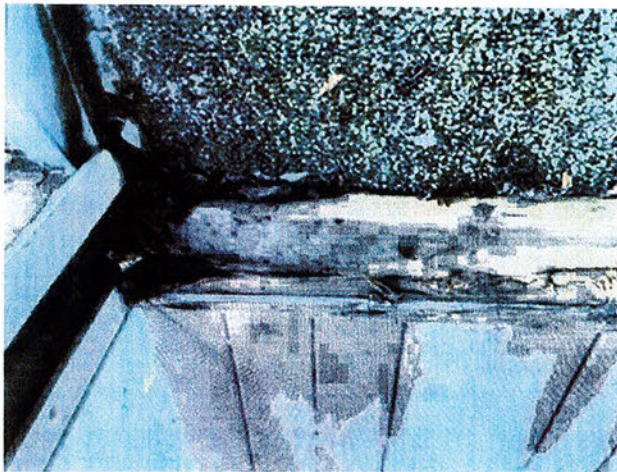
Small changes in structural design

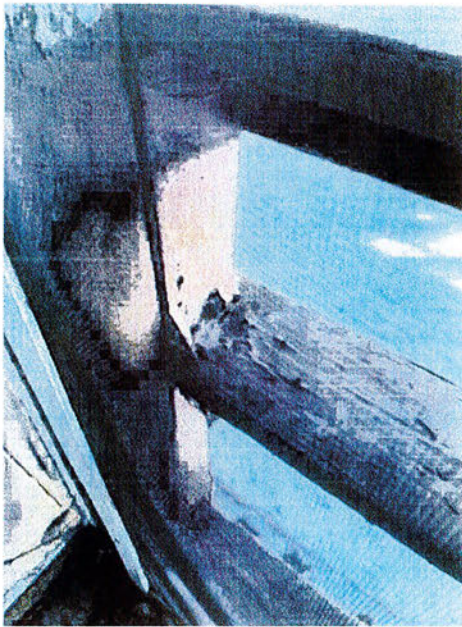
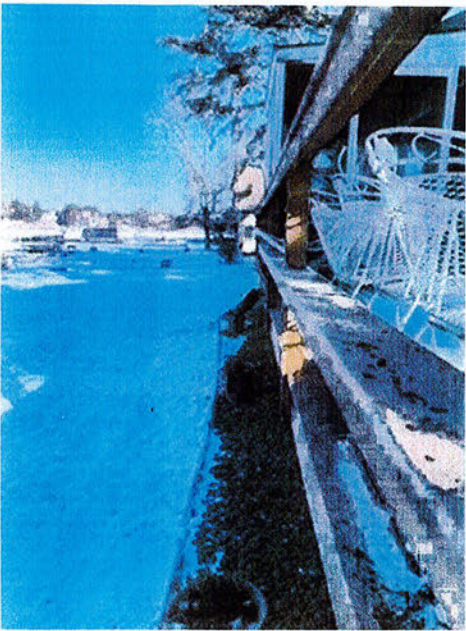
We would like to tear down and replace our existing screen porch which is rotting due to the weather. Please see attached pictures and plans.

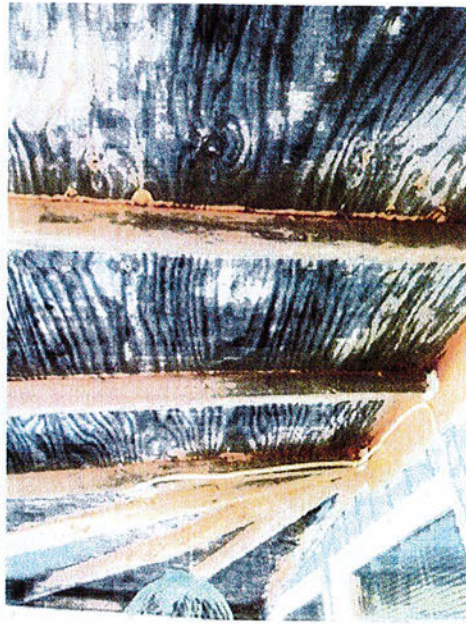
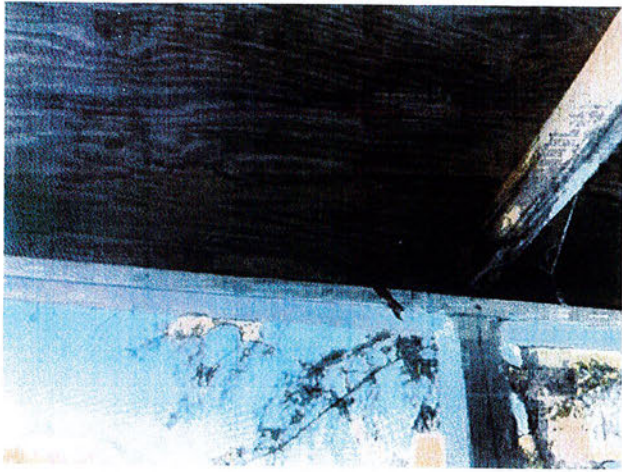
We would like to change it from a 2 season to a 3 season to avoid further deterioration from the elements.

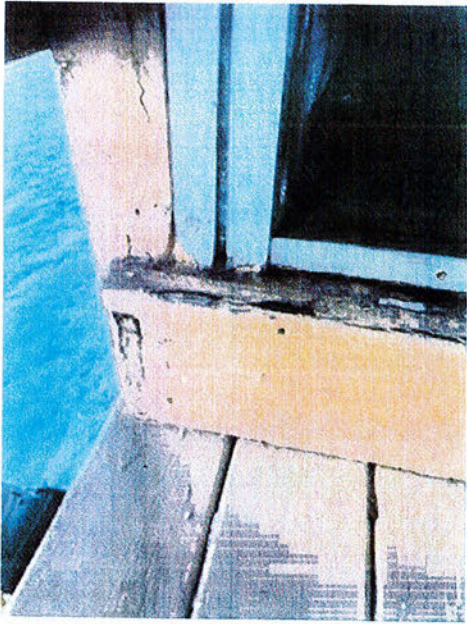
We are going no closer to the neighbors or the lake.









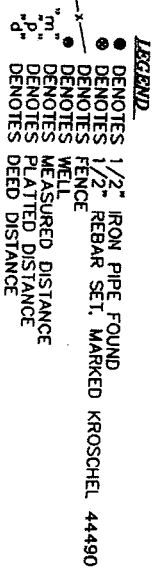


GRAPHIC SCALE

Scale: 1 inch = 100 Feet



NOTE: BEARINGS SHOWN ARE ASSUMED



Lot 13, CHI-SAK-WA SHORES, according to the plat thereof on file and of record in the office of the Registrar of Titles in and for Chisago County, Minnesota.

An inlet part of Lot 14, CHH-GAR-WA SHORES according to the plot thereon and part of record in the office of the Register of Titles in Chicago County, Minnesota, lying Southwesterly of the following described line: Commencing at the southeast corner of said Lot 14, the East 1/4 line of Lot 14, 12 feet to the point of beginning; thence North 63 degrees 44 minutes West, 179 feet, more or less, to the shore of North-Center Lake and there terminating.

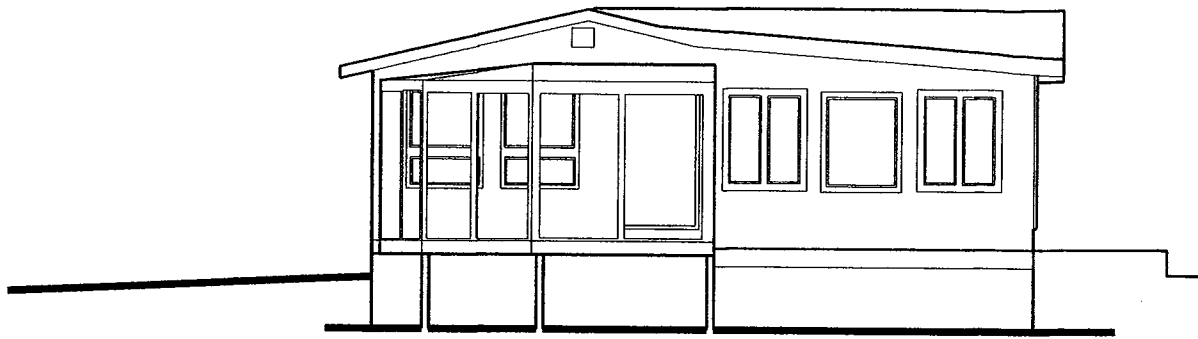
Dated this 22nd day of July, 2022

By: Tyler J. Kroschel, Land Surveyor
Minnesota License No. 44490

1. For the purposes of this survey, existing easements of record were not researched.

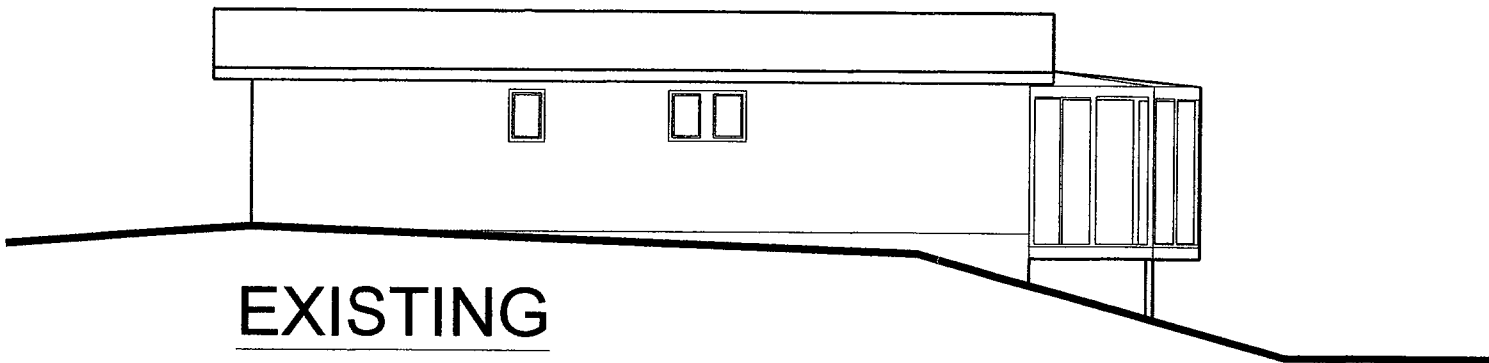
Kroschel Land Surveyors, Inc.

1639 Main Street North, Suite 6, Pine City, MN 55063
Phone: 320-629-3267 tyler@kroschelsurvey.com



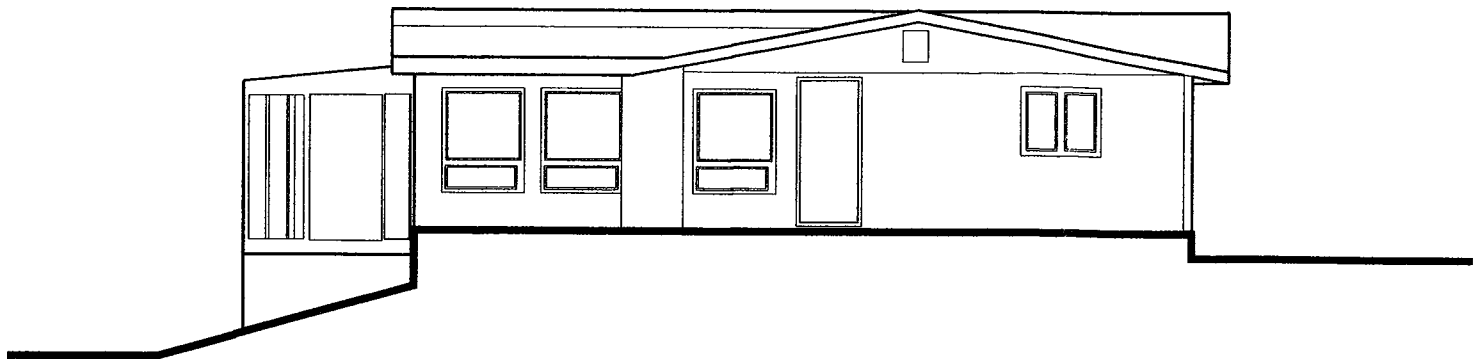
EXISTING
WEST ELEVATION

1/4" = 1'-0"



EXISTING
NORTH ELEVATION

1/4" = 1'-0"



EXISTING
SOUTH ELEVATION

1/4" = 1'-0"

REV. #	DATE	DESCRIPTION
1	00-00-23	

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 USER
OF THESE PLANS TO VERIFY
ALL DIMENSIONS,
CONSTRUCTION METHODS,
AND SPECIFICATIONS AND
ARE RESPONSIBLE FOR THE
SAME. ALL APPLICABLE
CODES, FRANCHISE AND
BUILDING PRACTICES
APPLY.

SIMMONS PORCH

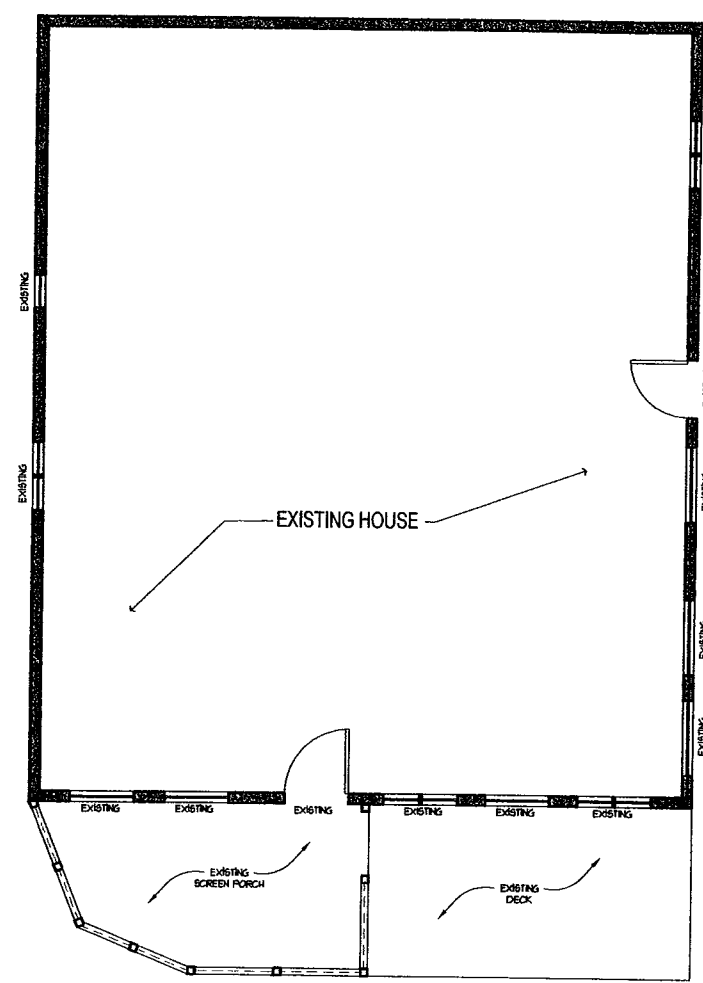
PLAN NUMBER:
23-1-123

SQUARE FOOT	
LOWELL	XXX SF
MAJOR	XXX SF
UPPER	XXX SF
SIDEWALK	XXX SF
POORWALK	XXX SF

OWNER:
SCOTT SIMMONS

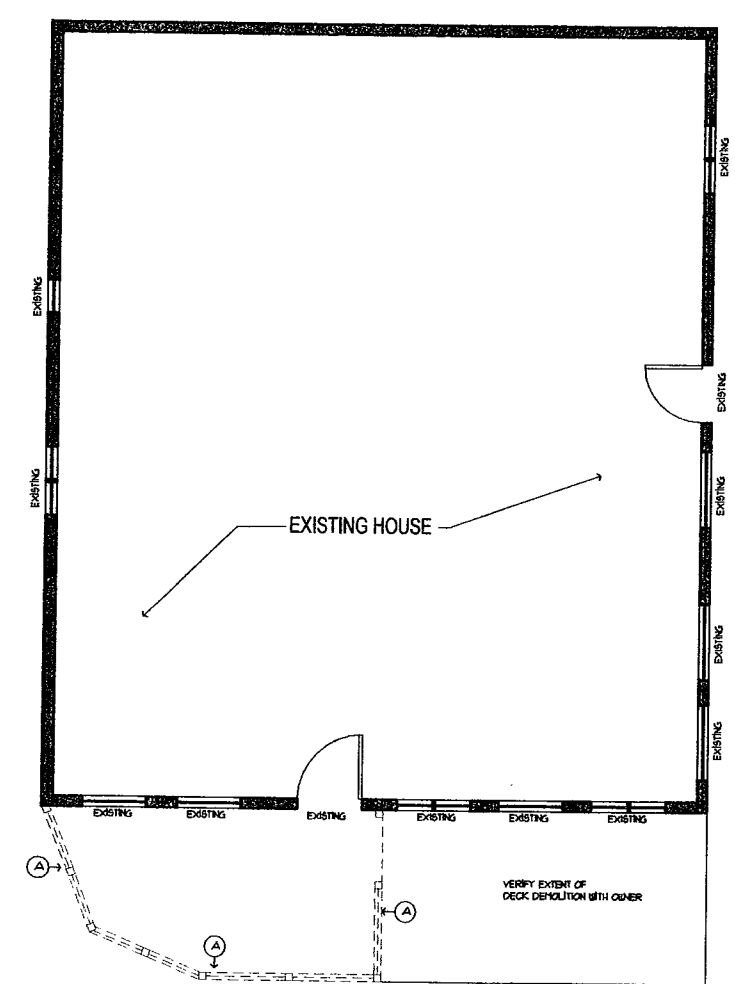
DATE: 08/29/2023
REV:

Sheet No.
AB1



EXISTING MAIN FLOOR PLAN

1/4" = 1'-0"



DEMOLITION PLAN

1/4" = 1'-0"

- DEMOLITION NOTES:**
1. VERIFY EXTENT OF DEMOLITION WITH OWNER
 2. PATCH AND REPAIR NEW TO OLD CONNECTIONS AS REQ'D
 3. INDICATES EXISTING WALLS TO REMAIN
 4. INDICATES EXISTING WALLS TO BE REMOVED
 5. INDICATES NEW WALL

- DEMOLITION NOTES:**
- (A) REMOVE PORTION OF EXISTING WALL
 - (B) REMOVE EXISTING DOOR OR WINDOW
 - (C) INFILL FRAME OLD OPENING AS REQ'D
 - (D) REMOVE PORTION OF EXISTING WALL PROVIDE NEW OPENING AND HEADER AS REQ'D

REV. #	DATE	DESCRIPTION
1	08-08-23	

KJ Design
Custom Home Design
Minnesota 651-243-5229
Wisconsin 715-671-0202
Kenjohnsdesign.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 BUILDING OWNER OR USER OF THESE PLANS TO VERIFY ALL DIMENSIONS, CONSTRUCTION METHODS, AND SPECIFICATIONS AND ARE RESPONSIBLE FOR THE SAME. ALL APPLICABLE CODES, PRAYING AND BUILDING PRACTICES APPLY.

SIMMONS PORCH

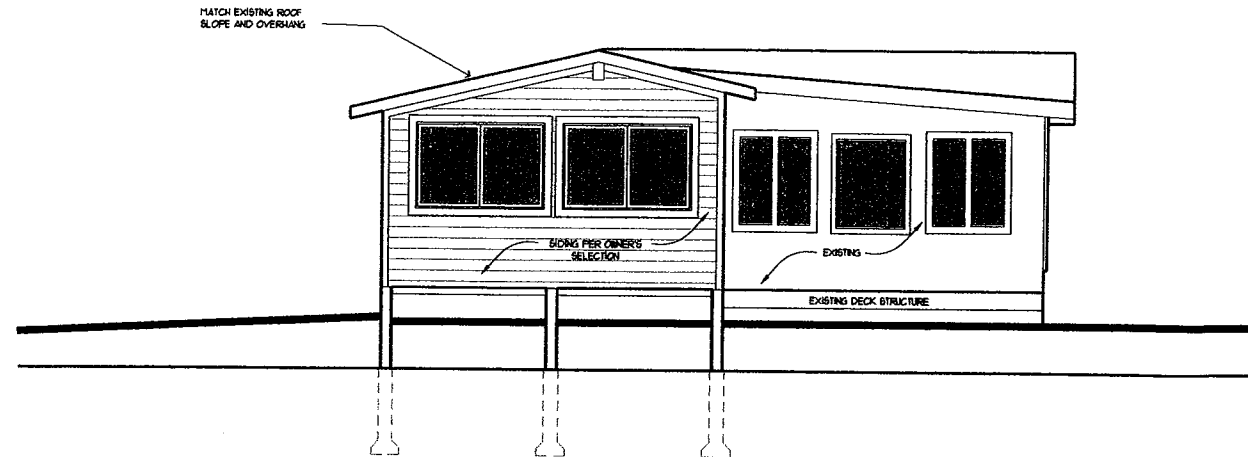
PLAN NUMBER:
23-1-123

SQUARE FOOT
LOVELL: XXX SF
MAD: XXX SF
UTER: XXX SF
DOOR: XXX SF
PERIMETER: XXX SF

OWNER:
SCOTT SIMMONS

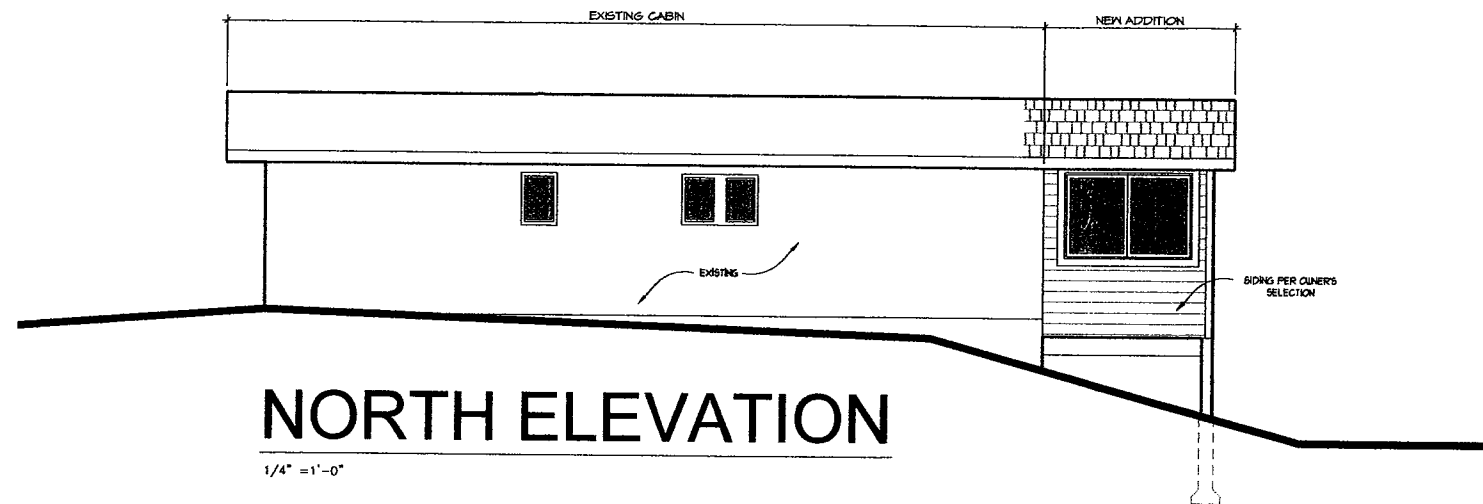
DATE: 08/08/2023
REV:

ENTRY NO.
AB2



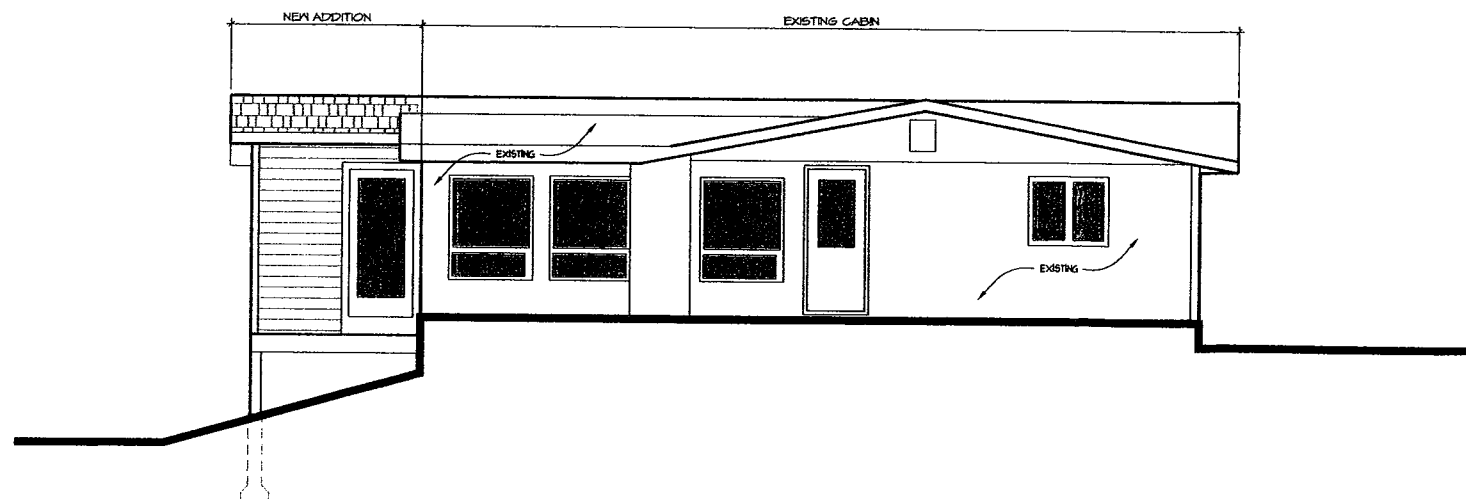
WEST ELEVATION

1/4" = 1'-0"



NORTH ELEVATION

1/4" = 1'-0"



SOUTH ELEVATION

1/4" = 1'-0"

WINDOW AND FALL PROTECTION

ALL OPERABLE WINDOWS ABOVE FINISH GRADE AND LESS THAN 36" ABOVE ABOVE FINISH FLOOR SHALL NOT PERMIT OPENINGS THAT ALLOW PASSAGE OF A 4" SPHERE.

ALL OPERABLE WINDOWS THAT ARE 72" ABOVE FINISHED GRADE AND LESS THAN 36" ABOVE FINISH FLOOR MUST HAVE WINDOW FALL PROTECTION DEVICES PER CODE

NOTE:
ALL CHASES AND PENETRATIONS NEED FIRE BLOCKING AT MAXIMUM 10'-0" O.C.

NOTE:
ALL WINDOW AND DOOR HEADERS TO BE (2) 2X10 UNLESS NOTED OTHERWISE

ALL HEADERS UP TO 4'-11" SINGLE TRIMMER

ALL HEADERS OVER 5'-0" DOUBLE TRIMMER UNLESS NOTED OTHERWISE.

NOTE:
ALL HEADER SIZES TO BE VERIFIED BY BUILDER / LUMBER SUPPLIER BEFORE CONSTRUCTION.

WINDOW / DOOR CALL OUT NUMBERS

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

WALL BRACE NOTE

NOTE:

☒ LINE INDICATES OS-WSP WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

☒ LINE INDICATES CP METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

☒ 6-6/2/2/6/2 METHOD PFH LINE INDICATES PFH METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

☒ 6-6/2/2/6/1 METHOD ABW LINE INDICATES ABW METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS

NOTE:

ENTIRE HOUSE TO USE 2X6 SPF STUD GRADE # 16" O.C.
W/ 1/2" OSB FASTENED TO INTERMEDIATE SUPPORTS 6"
ALL EDGES 12" IN THE FIELD

GENERAL NOTES:

- 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.
- 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.
- STRUCTURAL INFORMATION:
ALL STRUCTURAL INFORMATION SUCH AS HEADER/BEAM TYPE, LOCATIONS, SIZES, AND LOADINGS ARE TO BE PROVIDED BY THEIR RESPECTIVE SUPPLIERS.
- 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.
- VERIFY FLOOR FINISHES W/ OWNER.
- VERIFY ACTUAL GRADE CONDITIONS ON-SITE. STEP FOOTINGS AS REQUIRED TO MAINTAIN MINIMUM FROST DEPTH PER CODE.
- WINDOWS SPECIFIED ON PLANS VERIFY STYLE, TYPE AND BRAND OF WINDOW W/ OWNER.
- ALL OPENINGS TO EXTERIOR TO BE CAULKED AND FLASHED. FLASHING IS REQUIRED WHERE ALL ROOF AND VERTICAL SURFACES MEET, OR WHERE SIDING MATERIAL CHANGES.
- PROVIDE DRIP FLASHING AT ALL TRIM AND SIDING CHANGES AS REQUIRED.
- PROVIDE ATTIC VENTILATION NET FREE AREA TO BE EQUAL TO 1/60TH OF ATTIC AREA OR 1/60TH OF ATTIC AREA PROVIDED AT LEAST 50% IS IN UPPER PORTION OF ROOF WITH BALANCE IN SOFFIT.
- ICE DAM PROTECTION TO BE APPLIED FROM THE EAVES TO A LINE 24" INSIDE THE EXTERIOR WALL WITH ALL LAPS CEMENTED TOGETHER.
- INSTALL 1/2" OSB SHEATHING BEHIND ALL SHAKE AND STONE LOCATIONS (VERIFY).

REV #	DATE	DESCRIPTION
1	00-00-23	

KJ

Design

Custom Home Design

Minnesota 651-243-5229
Wisconsin 715-671-0202
Kenjohnsondesign.com

GENERAL NOTE:
EVERY EFFORT HAS BEEN MADE TO INSURE 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 BUILDERS/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.

SIMMONS PORCH

PLAN NUMBER:

23-1-123

SQUARE FOOT

LOWR.	XXX SF
MAIN.	XXX SF
UPPER.	XXX SF
Basement	XXX SF
Porches	XXX SF

OWNER:

SCOTT SIMMONS

DATE: 08/23/2023

REV:

SHEET NO.

A1

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NO REPRODUCTION WITHOUT WRITTEN PERMISSION

WINDOW AND FALL PROTECTION

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REV. #	DATE	DESCRIPTION
1	00-00-23	

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SIMMONS PORCH

W.	H.
$\begin{array}{c} \text{H} \\ \text{H} \\ \text{H} \\ \text{H} \\ \text{H} \end{array}$	$\begin{array}{c} \text{H} \\ \text{H} \\ \text{H} \\ \text{H} \\ \text{H} \end{array}$
5 0	4 0

ENTIRE HOUSE TO USE 2X6
SPF STUD GRADE @ 16" O.C.
W/ 3" OGB FASTENED TO
INTERMEDIATE SUPPORTS 6"
ALL EDGES 12" IN THE FIELD

1. SHOCK 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 SHOCK DETECTOR
2. ALL WINDUOS LOCATED IN HAZARDOUS LOCATIONS (IE, MASTER BATH LESS THAN 18" ABOVE FINISHED FLOOR OR WITHIN 8' OF A DOOR) ARE TO BE TEMPERED GLASS
3. STRUCTURAL INFORMATION:
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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. WINDUOS SPECIFIED ON PLANS VERIFY STYLE, TYPE AND BRAND OF WINDUOS 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 1/60TH 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 DAP PROTECTION TO BE APPLIED FROM THE EAVES TO A LINE 24" INSIDE THE EXTERIOR WALL WITH ALL LAPS ORIENTED TOGETHER
12. INSTALL 1/2" X 6" SHEATHING BEHIND ALL SHAKE AND STONE LOCATIONS (VERIFY)

A2

$$1/4'' = 1' - 0''$$
$$1/4^n = 1 - 0^n$$

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SIMMONS PORCH

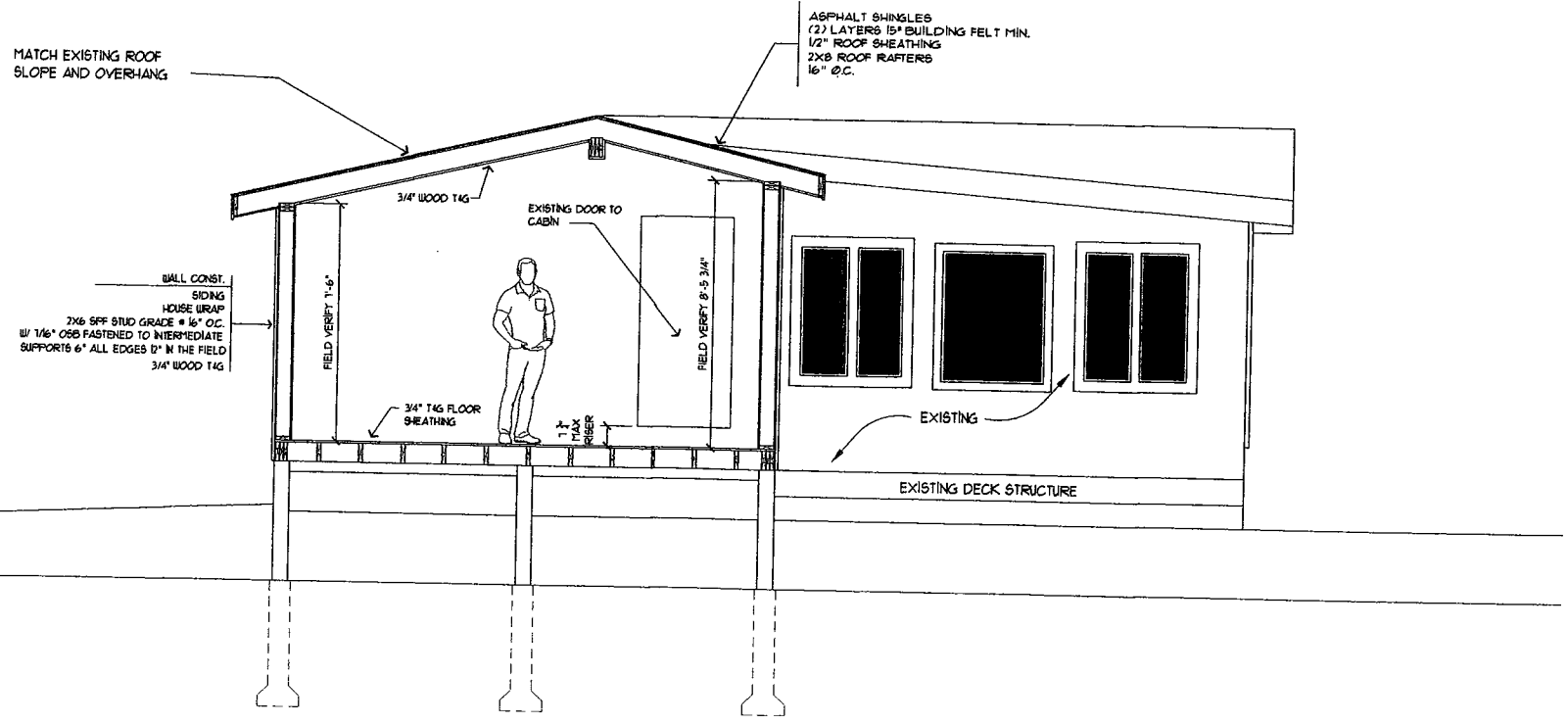
REV. #	DATE	DESCRIPTION
1	00-00-23	

WINDOW / DOOR CALL OUT NUMBERS	
W.	H.
1 1 1	1 1 1
2 2 2	2 2 2
3 3 3	3 3 3
4 4 4	4 4 4
5 5 5	6 6 6

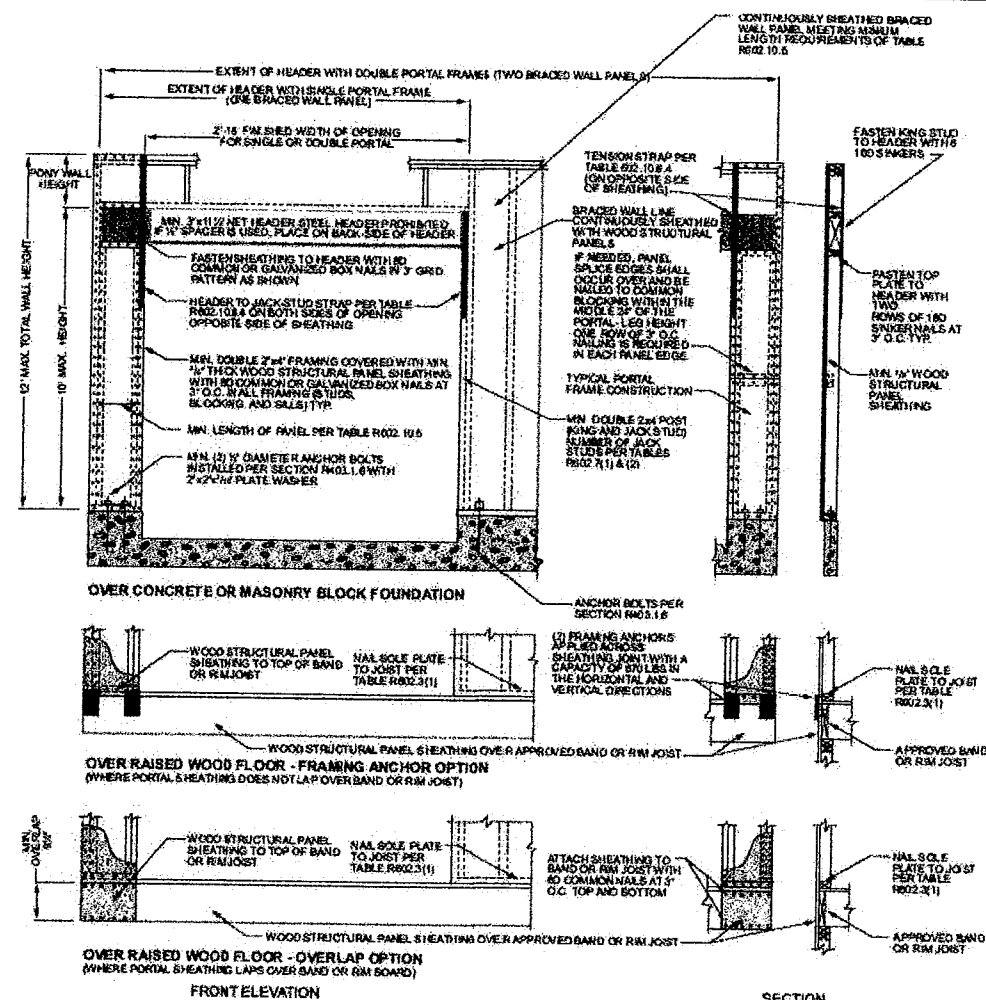
WALL BRACE NOTE	
NOTE:	
☐ A	LINE INDICATES CS-WEP WALL BRACING PER CODE SEE PLAN FOR LOCATIONS
☐ B	LINE INDICATES GP METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS
☐ C	6602.10.6.2 METHOD FFH LINE INDICATES FFH METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS
☐ D	6602.10.6.1 METHOD ASW LINE INDICATES ASW METHOD WALL BRACING PER CODE SEE PLAN FOR LOCATIONS
NOTE:	
ENTIRE HOUSE TO USE 2X6 SFF STUD GRADE # 16" O.C. W/ 1/4" OSB FASTENED TO INTERMEDIATE SUPPORTS 6" ALL EDGES 12" IN THE FIELD	

- GENERAL NOTES:**
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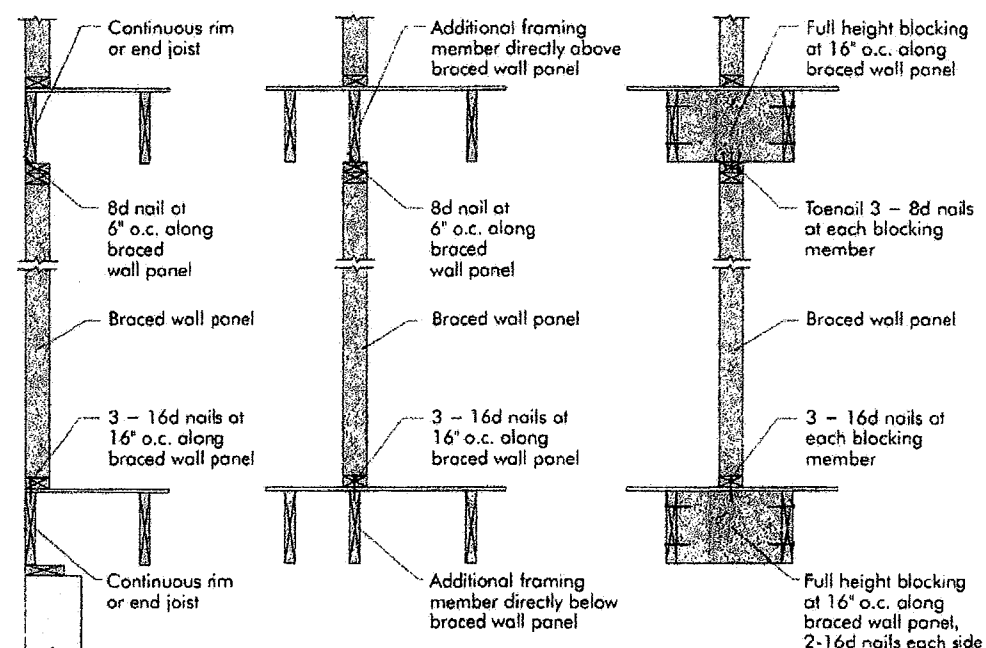
PLAN NUMBER:		23-1-123
SQUARE FOOT		
LOWERS:	XXX SF	
UPPER:	XXX SF	
TOTAL:	XXX SF	
OWNER:		SCOTT SIMMONS
DATE:		08/23/2023
REV:		
SHEET NO.		A3



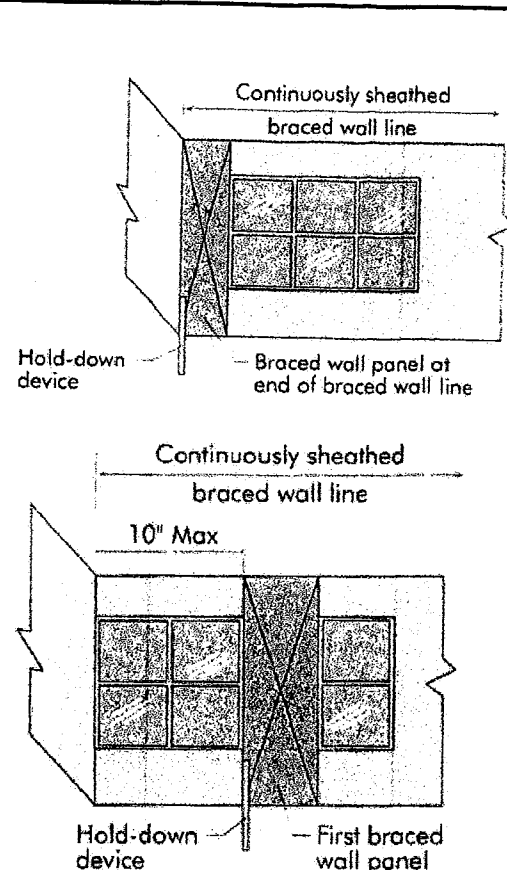
BUILDING SECTION
3/8" = 1'-0"



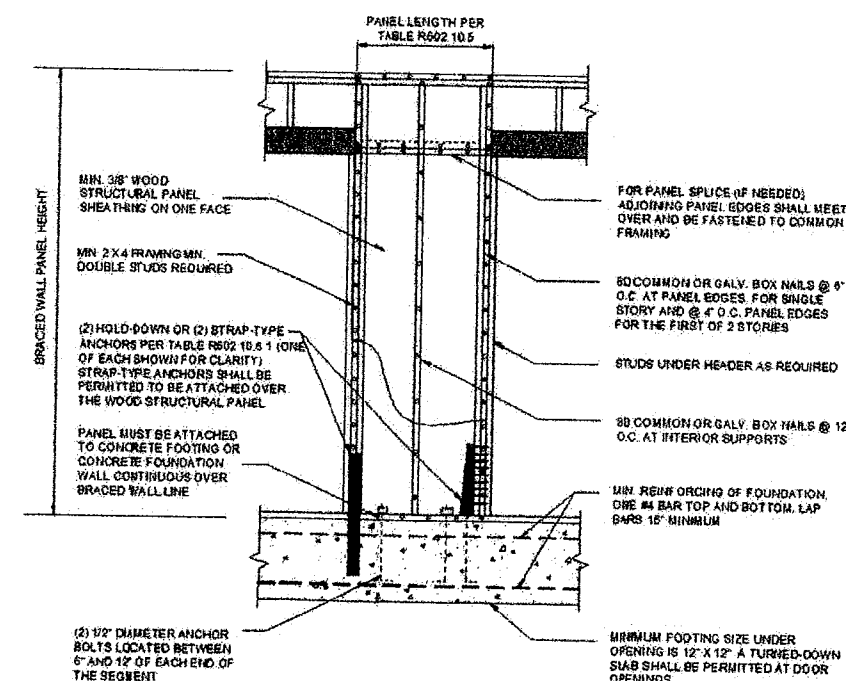
CS-PF BRACED WALL PANEL
CONSTRUCTION DETAIL



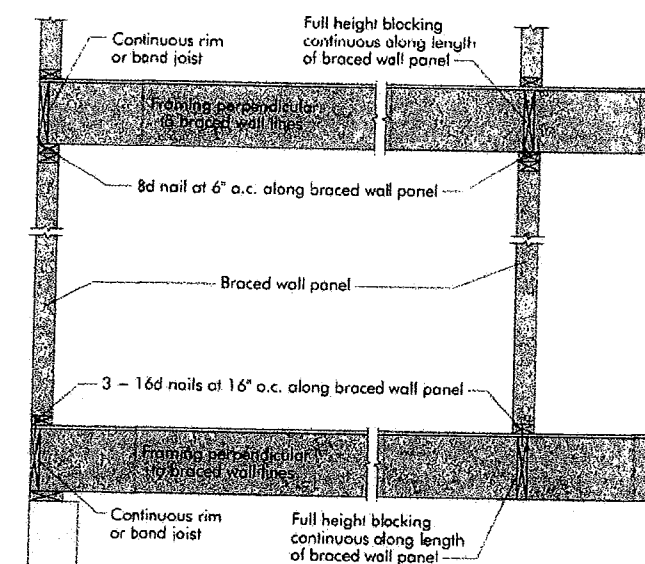
BRACED WALL PANEL CONNECTION WHEN
PARALLEL TO FLOOR / CEILING FRAMING



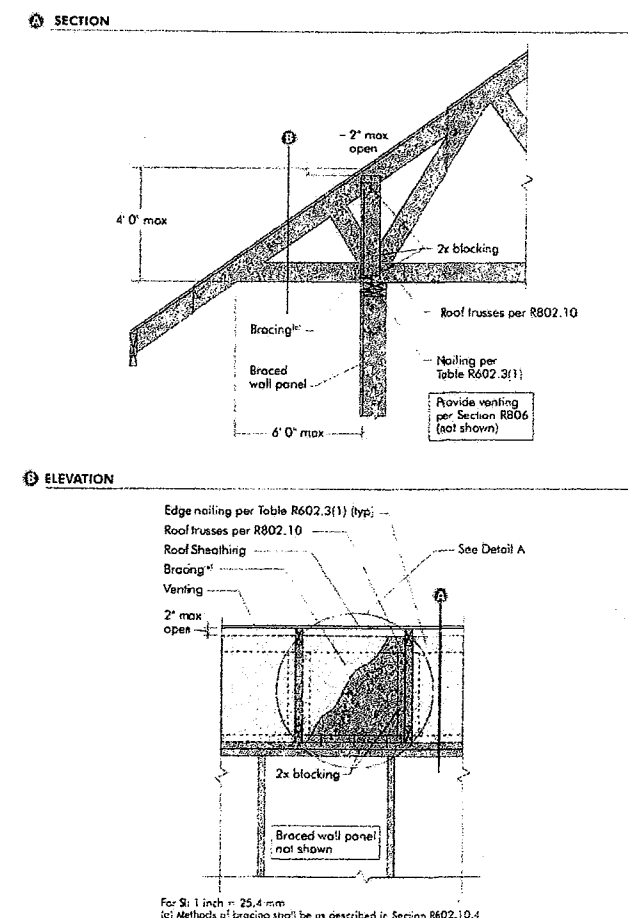
CS BRACED WALL PANEL
CONSTRUCTION DETAIL



R602.10.6.1 METHOD ABW
CONSTRUCTION DETAIL



BRACED WALL PANEL CONNECTION
WHEN PERPENDICULAR TO FLOOR /
CEILING FRAMING



BRACED WALL PANEL CONNECTION
OPTION TO PERPENDICULAR RAFTERS
OR ROOF TRUSSES.

REV. #	DATE	DESCRIPTION
1	06-05-23	

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

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SIMMONS PORCH

PLAN NUMBER:
23-1-123

SQUARE FOOT
LOWER: XXX SF
MAIN: XXX SF
UPPER: XXX SF
TOTAL: XXX SF
FINISHED: XXX SF

OWNER:
SCOTT SIMMONS

DATE: 08/29/2023
REV:

SHEET NO.

A4

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
.31	x 43,560	= 13,503

OR	Total area of parcel in square feet

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	30 x 37	=	1,110
garage	16 x 20	=	320
deck	8 x 33	=	264
patio	22 x 38	=	836
sidewalk	3 x 25	=	75
driveway	28 x 33	=	924
other; list:		=	
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			3529

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

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
multi		=	236
other; list:		=	
2nd garage	20 x 20	=	400
shed		=	
TOTAL OTHER ITEMS			636

Calculate:

Total from "Residential Structures":	3529	+
Total from "Agricultural Structures":	0	+
Total from "Other Items":	636	+
Total square footage of coverage:	4165	=
(divide by total area of parcel, above)		/
		=
TOTAL IMPERVIOUS SURFACE	.31	%

signature	
date	1-22-24
corresponding permit number	

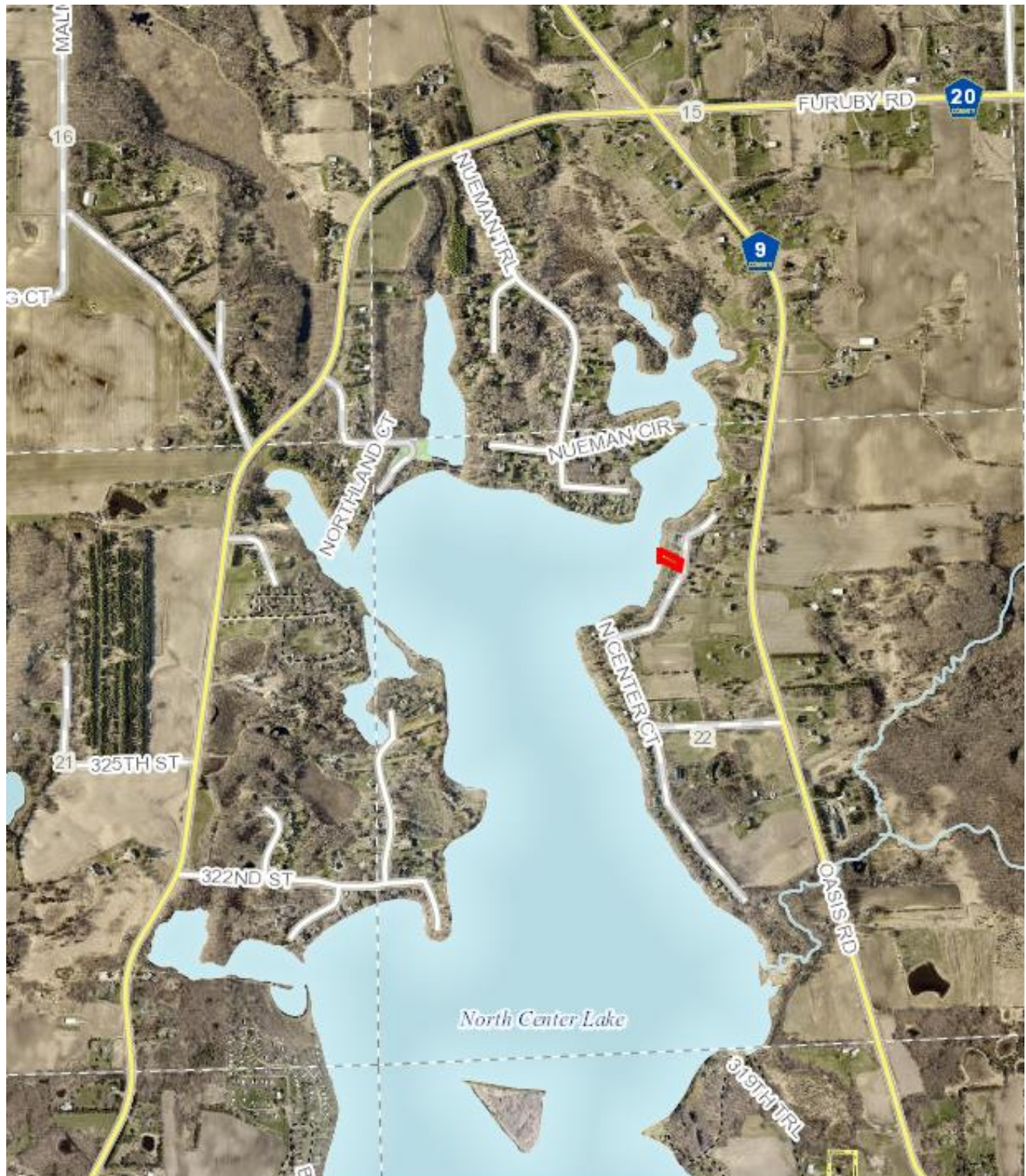
Teresa Simmons Trust – Trustees Scott & Teresa Simmons are requesting a Variance in order to enlarge and intensify a non-conforming structure closer to the Ordinary High Water Level than required in the Rural Residential II (RRII) District / Shoreland Management District. The .31± acre subject site is located at 32770 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01084.00).

Simmons Property - 



Teresa Simmons Trust – Trustees Scott & Teresa Simmons are requesting a Variance in order to enlarge and intensify a non-conforming structure closer to the Ordinary High Water Level than required in the Rural Residential II (RRII) District / Shoreland Management District. The .31± acre subject site is located at 32770 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01084.00).

Simmons Property - 



RESOLUTION NO. BOAA2024-0203

**A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA,
APPROVING A VARIANCE ALLOWING THE ENLARGEMENT AND INTENSIFICATION OF A
NON-CONFORMING STRUCTURE CLOSER TO THE ORDINARY HIGH WATER LEVEL THAN REQUIRED ON
PROPERTY LOCATED AT 32770 N. CENTER COURT IN CHISAGO LAKE TOWNSHIP**

WHEREAS, Teresa Simmons & Scott Simmons, applicants, and the Teresa M. Simmons Trust, property owner, submitted an application dated received January 24, 2024 and considered complete on February 2, 2024 for a Variance to Zoning Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.21; and

WHEREAS, the applicants wish to replace and intensify a two season porch which is located approximately 36' from the Ordinary High Water Level where the required setback is 75'; and

WHEREAS, the .31-acre subject site is located in the Rural Residential II (RRII) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 02.01084.00

Lot Thirteen (13), CHI-GAK-WA SHORES, according to the plat thereof on file and of record in the office of the Registrar of Titles in and for Chisago County, Minnesota.

AND

All that part of Lot Fourteen (14), CHI-GAK-WA SHORES, according to the plat thereof on file and of record in the office of the Registrar of Titles in and for Chisago County, Minnesota lying Southwesterly of the following described line: Commencing at the southeast corner of said Lot 14, CHI-GAK-WA SHORES; thence North 7 degrees 48 minutes E, along the Easterly line of Lot 14, 12 feet to the point of beginning; thence North 63 degrees 44 minutes W, 179 feet, more or less, to the shore of North Center Lake and there terminating.

WHEREAS, notice was provided and on February 29, 2024 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, 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 structure will be situated in a manner that complies with the required side yard setbacks so as not to impair an adequate supply of light and air to adjacent properties. The westerly property boundary is adjacent to a public body of water and the easterly property boundary is adjacent to a public Right-of-Way, where there is no impact on the supply of light and air to other properties.

Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
Finding #2	<i>The proposed structure is accessory to the principal structure (dwelling) and will not have any direct impact on the number of occupants residing in the dwelling. Therefore, the County finds that the proposed structure will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding roadways.</i>
Criteria #3	The proposed action will not increase the danger of fire or endanger the public safety;
Finding #3	<i>The property owner will be required to obtain a building permit prior to construction of the proposed structure 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.</i>
Criteria #4	The proposed action will not unreasonably cause undue negative impact to surrounding properties;
Finding #4	<i>Being that the proposed structure is replacing a similarly sized existing structure and because the proposed structure will replace a deteriorating structure and because the proposed structure is not being located any closer to neighboring properties (to the north and south) than the existing structure, the County does not find any evidence that the proposed structure will create any negative impact to surrounding properties.</i>
Criteria #5	The proposed action will not cause an unreasonable strain upon existing facilities and services;
Finding #5	<i>The proposed structure will not create additional bedrooms and will not increase the number of occupants in the existing dwelling or the need for additional facilities and services; therefore, the County finds that the proposed structure will not create any strain or increased impact upon existing facilities and services.</i>
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	<i>There is no evidence to suggest that the proposed structure will have any negative fiscal impact on the County or school district. The County finds that the proposed structure may increase the property value which will, in fact, create a positive fiscal impact for both the County and school district.</i>
Criteria #7	The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
Finding #7	<i>The intent of Zoning Ordinance Section 4.03 is to regulate non-conforming buildings, structures, and uses, and the intent of Shoreland Management Ordinance Section 5.21 is to regulate the setback of structures and sewage treatment systems from the Ordinary High Water Level (OHWL). While the proposed structure is non-conforming in that it will encroach on the OHWL, the County finds that it will not exacerbate the existing OHWL setback encroachment. Additionally, the Zoning Ordinance allows for Variances, including setback 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</i>

character of the surrounding area. The County finds that the request is reasonable in that three season porches are a reasonable use in the Rural Residential II (RRII) District / Shoreland Management District and the applicants are not constructing the proposed structure any closer to the OHWL than the existing structure; that there is a unique circumstance in that the non-conforming property was platted and developed well before the County adopted official land use controls; and, that the proposed structure fits the essential character of the residential lakeshore neighborhood.

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

- 1. This approval allows for the enlargement and intensification of an existing two season porch which is located closer to the Ordinary High Water Level (OHWL) than required by the Chisago County Shoreland Management Ordinance. This approval allows for the two season porch to be intensified to a three season porch and enlarged by squaring off the north and west walls of the structure, but it shall not be located any closer to the OHWL than the existing structure. The structure shall meet all other required setbacks.
- 2. The structure shall be constructed in general conformance with the application materials, including location and dimensions, dated received January 24, 2024. Any significant deviation from the approved request, 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 permit holder shall obtain a building permit prior to construction and, further, the structure shall comply with all applicable codes and regulations except as permitted by this Variance.
- 4. The County acknowledges that the amount of impervious surface coverage was 31% at time of Variance application, which exceeds the maximum allowable amount of 25%. With this approval, the overall amount of impervious surface coverage shall remain at or less than 31%. This condition shall be verified at time of building permit application.
- 5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 29th day of February, 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Rebecca Strand
Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator