

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

Tour Date and Time: Friday, December 20, 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. November 26, 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.
- 6. Public Hearings – New Applications**
 - a. **Carrie Penshorn** – Property owner Carrie Penshorn is requesting a Variance allowing for reduced Township Right-of-Way and westerly side yard setbacks for the purpose of redeveloping the property with a new dwelling and attached garage. The .19± acre subject site is zoned Rural Residential I (RRI) District / Shoreland Management District and located at 14150 Old Holt Court in Chisago Lake Township, S3, T33, R20 (PID 02.00013.00).
- 7. Public Hearings – Continued Hearings**

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

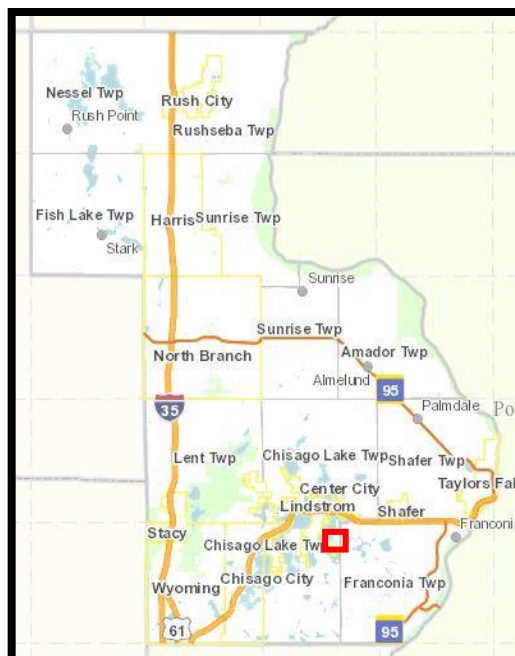
The next meeting is scheduled for Thursday, January 30, 2025 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time:

Friday, December 20, 2024 at 8:15 am

Departing from Chisago County Highway Department
31325 Oasis Road, Center City, MN 55012



CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
November 26, 2024

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, November 26, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Sarah Scheunemann, Office Support Specialist – Land Services

Acting Chair Greene 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: Gregg Carlson, John Sutcliffe, and Acting Chair Doug Greene. Absent: Chip Yeager (Excused). A quorum was established.

APPROVAL OF AGENDA – Carlson requested that the Board add discussion about voting procedure under New Business. **Motion** by Carlson to approve the agenda as amended; second by Sutcliffe. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – **Motion** by Sutcliffe to approve the October 31, 2024 meeting minutes as presented; second by Carlson. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – **Motion** by Sutcliffe to receive all applications, submittals, reports, and other materials into the record; second by Carlson. 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 and attachments. Copies of all meeting materials were made available at the entrance to the County Board Room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Michael & Wendy Kenneally, Kirk Kenneally and Guy Smith – Coordinator Gervais stated that property owners Michael & Wendy Kenneally and applicants Kirk Kenneally and Guy Smith were requesting a Variance to expand a non-conforming dwelling which was located closer to the Ordinary High Water Level of West Rush Lake than permitted in the Rural Residential I (RRI) District / Shoreland Management District. The .27± acre subject site was located at 1476 509th Street in Nessel Township, S22, T37, R22 (PID 06.00464.00).

Gervais provided background information, sharing that property owners Michael & Wendy Kenneally sought Variance approval to expand their legal non-conforming dwelling by adding a second story over the front / lakeside portion of the dwelling, noting that the subject site was approximately .27± acres in size and located on a private drive approximately one-half mile northwest of the intersection of Bayview Avenue and 507th Street on the east shore of West Rush Lake. According to Chisago County Assessor's Office records, the original dwelling was constructed in 1955 and was later lost to a fire. A Variance was granted by the County in July 1989 which allowed redevelopment of the subject site. Board meeting minutes suggested that the 1989 Variance was granted on the basis that the subject site constituted pre-existing development. Gervais added that, based on the

County's GIS Viewer, the subject site appeared to be approximately 90' wide and approximately 135' deep and the property was considered legal non-conforming in that it did not meet current lot area or lot width requirements for the Shoreland Management District. Based on the application materials, the subject site had been developed with a 28' X 34' (952 sf) dwelling and a 24' X 22' (528 sf) detached garage. However, staff noted that Assessor's Office records suggested that the dwelling was 28' X 36' (1,008 sf). Gervais noted that the size of the dwelling was relevant being that the Chisago County Zoning Ordinance required dwellings to be a minimum of 960 sf. The dwelling was considered non-conforming due to an approximate 25'-30' Ordinary High Water Level (OHWL) setback encroachment; however, the encroachment was deemed legal non-conforming as it was allowed by the 1989 Variance. The existing amount of impervious surface coverage was reported by the property owners to be 24.52%.

Gervais provided details of the proposed Variance noting that the building plans indicated the second-story addition would include two bedrooms, a full bathroom, and a family room. The proposed expansion would result in a total of three bedrooms. Being that the proposed expansion was vertical, it would not exacerbate the already non-conforming OHWL setback or increase the amount of impervious surface coverage.

Gervais shared that the property owners had provided a written narrative that addressed the State mandated practical difficulty standard. The narrative explained that the request was reasonable in that the proposed expansion would not increase the footprint of the dwelling or exacerbate the non-conforming OHWL setback, and the proposed expansion fit the essential character of the area in that it was consistent with other recently improved dwellings in the neighborhood. Staff offered that the subject site was unique in that it constituted preexisting development.

The Technical Review Committee met with property owner Wendy Kenneally on November 13, 2024. The group discussed history of the property and screen porch and reviewed details of the Variance request. It was noted that a septic compliance inspection was scheduled for November 15, 2024. The Committee did not identify any immediate concerns with the request at that time. The Nessel Town Board considered the request on November 12, 2024 and recommended approval with no comments or recommended conditions. The State mandated 60-day review period was scheduled to expire on December 31, 2024.

Gervais briefly reviewed staff concerns noting that the November 15, 2024 septic compliance inspection revealed a number of issues.

1. The system was not adequately sized for the existing / proposed three-bedroom dwelling and was technically undersized for even a two-bedroom dwelling.
2. Due to existing setback encroachments, the Type 1 system could not be expanded to support a three-bedroom dwelling. The system was located 0' from the west property boundary where the required setback was 10'; the absorption area was located 15' from the screen porch where the required setback was 20'; and the septic tank was located 4.5' from the garage where the required setback was 10'.

Gervais provided possible remedies such as reducing the number of bedrooms or replacing the existing system with a holding tank sized to accommodate the existing / proposed three-bedroom

dwelling. Gervais shared that replacing compliant Type 1 septic systems with holding tanks was generally discouraged; however, in this specific case, the replacement would allow for the desired number of bedrooms and would resolve multiple setback encroachments.

Gervais concluded by noting that the staff report had provided a recommendation of tabling the request to allow the property owners time to decide what they would like to do in regard to the septic system; however, property owner W. Kenneally had indicated to staff prior to the meeting that she would replace the system with a holding tank to make it compliant for the three-bedroom design. Based on the new information, staff provided a recommendation of approval with draft Findings of Fact and recommended conditions.

Carlson asked staff if recommended condition no. 2 would need to be amended to ensure that the property owners had a properly sized septic system. Gervais responded that she believed the condition was sufficient in that it provided the property owners flexibility by simply requiring that the number of bedrooms be determined based on the size of the septic system.

Acting Chair Greene invited the applicant to address the Board. Applicant Guy Smith was present but had no additional information to offer. Greene asked Smith if W. Kenneally had shared any additional information regarding the septic system concerns. Smith reiterated that the property owner planned to replace the Type 1 system with a 2,000-gallon holding tank. Greene followed up by asking Smith what his role was in the application process. Smith explained that he was the building contractor. Carlson referenced the November 25, 2024 site visit, asking staff if the existing septic system would support two bedrooms. Gervais stated that, per the County Sanitarian, the existing system would support two bedrooms. Carlson asked Smith if he knew when the screen porch was added on to the existing dwelling. Smith stated that he was unsure. Gervais provided slight clarification by referencing photos from the Assessor's Office, stating that the porch was added sometime between 1990 and 2015. There was discussion between Carlson and Smith on the location of the second story addition. Smith assured Carlson that the addition would not go above the existing porch and would only go above the footprint of the house. Smith provided information to the Board on how they were going to approach construction of the second story. Greene asked if the property owners would need to apply for a second Variance for the new holding tank. There was discussion between the Board and staff noting that the new holding tank would fit, and the existing mound system would need to be removed.

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

Motion by Sutcliffe to adopt Resolution No. BOAA2024-1101, 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 on property located at 1476 509th Street in Nessel Township, as presented; second by Carlson. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants a Variance allowing the expansion of a legal non-conforming structure (dwelling) by allowing an upward expansion through the addition of a second story. The

dwelling expansion shall be constructed in general conformance with the application materials dated received November 1, 2024 and kept on file with the Department of Environmental Services and as conditioned herein. 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 owners' expense.

2. The maximum number of bedrooms shall be determined by the size of the septic system. Given that the existing septic system is not designed to accommodate three bedrooms (existing and proposed number of bedrooms), the permit holder will either be required to reduce the number of bedrooms (two bedrooms being the maximum allowed) or a new septic system will need to be designed and installed to support three bedrooms. This Variance does not include any allowances for the existing septic system or potential modifications to the septic system, which means that any potential modifications must be made in compliance with all applicable codes and regulations.
3. The permit holder shall obtain all necessary permits prior to construction and, further, the dwelling expansion 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

2025 Board of Adjustment & Appeals Meeting Schedule – **Motion** by Carlson to adopt the 2025 Chisago County Board of Adjustment & Appeals Meeting Schedule as presented; second by Sutcliffe. The **motion passed** and carried unanimously.

Voting Procedure – Carlson asked staff if the voting procedure changed when there were only three Board members present, specifically where the vote wasn't unanimous. Gervais answered by stating that she didn't believe it would be an issue as they only needed a majority vote.

MISCELLANEOUS

None

ADJOURN MEETING – **Motion** by Sutcliffe to adjourn; second by Carlson. The **motion passed** and carried unanimously. The meeting was adjourned at 7:32 p.m.

Douglas Greene
Acting Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance Allowing Reduced Township Right-of-Way and Side Yard Setbacks
 14150 Old Holt Court, Chisago Lake Township
 DATE: December 23, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing a reduced Township Right-of-Way setback and a reduced westerly side yard setback for the purpose of redeveloping the property with a new dwelling and attached garage.

SITE & APPLICATION INFORMATION

Property Owner(s): Carrie Penshorn
 Applicant(s): Carrie Penshorn
 Property Address: 14150 Old Holt Court
 Chisago Lake Township
 General Location: Section 3, Township 33, Range 20
 PID: 02.00013.00
 Property Area: .19± Acres
 Current Zoning: Rural Residential I (RRI) District / Shoreland Management District
 Adjacent Zoning:
 North: South Center Lake
 South: Rural Residential I (RRI) District / Shoreland Management District
 East: Rural Residential I (RRI) District / Shoreland Management District
 West: Rural Residential I (RRI) District / Shoreland Management District
 Date Application Received: November 20, 2024
 Date Application Complete: December 2, 2024
 60-Day Review Period: January 31, 2025

BACKGROUND

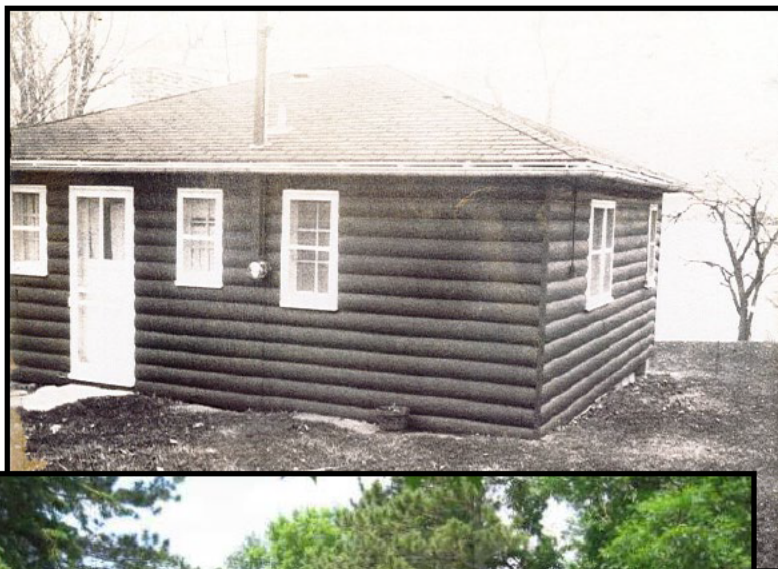
Property owner Carrie Penshorn wishes to redevelop her lakeshore property by demolishing or otherwise removing the existing cabin and constructing a new dwelling with attached garage. The property owner is seeking Variance approval in



order to have reduced structural setbacks from the Old Holt Court Right-of-Way and the westerly side yard.

SITE ANALYSIS

The .19± acre subject site is located approximately one-tenth of a mile west of Glader Boulevard on the north side of Old Holt Court. The subject site is currently developed with a 728 sf cabin and 288 sf boathouse. With the exception of the southeasterly corner of the cabin, the structure appears to meet all required setbacks. The boathouse appears to be located within the required Ordinary High Water Level (OHWL) setback and within a FEMA flood zone where the County currently prohibits any development. Both the dwelling and the boathouse are considered non-conforming structures. While the history of the boathouse is unknown to current staff, records from the Chisago County Assessor's Office indicate that the cabin has existed since 1954 which means that it predates the County's adoption of official land use controls and is therefore considered to be legal non-conforming. The top adjacent shows the existing cabin in May 1972 and the bottom adjacent image shows the same cabin in June 2011.



According to the attached survey, the .19± acre subject site is approximately 57' wide and approximately 155' deep (average). Based on lot area and lot width, the property itself is considered non-conforming in that it doesn't meet current minimum requirements of the Shoreland Management Ordinance. Based on the age of the cabin and detail included in the written narrative, the property is also considered to be legal non-conforming.

Topography of the subject site includes elevations ranging significantly from 898' adjacent to the northerly property boundary / shoreline of South Center Lake to 925' adjacent to the southerly property boundary / Township Right-of-Way. While the northerly 8'-20' are located

within a FEMA flood zone, the existing cabin and proposed dwelling are located entirely outside of the flood zone.

The reported amount of existing impervious coverage is 14.2%, which staff notes includes a small amount (13 sf) of a neighboring shed (also owned by property owner Carrie Penshorn) which encroaches on the subject site. Being that the maximum allowable amount of impervious surface coverage is 25%, the subject site is currently well within the allowable amount of lot coverage.

The subject site is served by municipal sewer, which means that there's no need for a septic compliance inspection as part of the Variance request. Being served by municipal sewer also means that the required OHWL setback is 50' rather than the more common 75' for unsewered properties on General Development lakes.

PROPOSAL ANALYSIS

The attached application materials indicate that the property owner would like to remove the existing cabin and redevelop the property with a new dwelling and attached garage. The stated purpose for redevelopment is the need for an accessible home. In order to redevelop the site as desired, the property owner is seeking Variance approval for a 29.97' Township Right-of-Way setback where the required setback is 40', and an 8.7' westerly side yard setback where the required setback is 10'. The dwelling appears to meet the easterly side yard and OHWL setbacks. The written narrative explains that the requested setbacks are necessary due to the limited amount of buildable land given that the property boundaries form a parallelogram.

Based on the RRI District classification and the size of the subject site, the maximum allowable amount of accessory storage space is 1,000 sf. Based on the survey / site plan, the footprint of the attached garage appears to be 20' x 24' or 480 sf. The proposed attached garage and boathouse together are within the allowable amount of accessory storage space.

The proposed amount of impervious surface coverage is reported to be increasing from 14.2% to 24.6%, which is still within the allowable amount of lot coverage. Staff notes that the proposed amount only includes the proposed dwelling with attached garage and the existing boathouse. The written narrative explains that, in order to achieve 24.6%, the proposed driveway and patio will be constructed with pervious pavers and the property owner will remove existing concrete walkways, retaining walls, and the deck.

While the proposed impervious surface coverage amount of 24.6% is compliant with the Shoreland Management Ordinance, staff did have concern with the accuracy of this percentage prior to the December 11, 2024 Technical Review Committee meeting. During the meeting, staff sought clarification on certain slight discrepancies between the existing and proposed amounts of impervious surface coverage, including a 13-sf difference in shed encroachment size and an 8-sf difference in boathouse size. The property owner explained

that these discrepancies resulted from further refinement of the survey (measuring the foundation of the shed rather than from outside of siding material) and elimination of the shed encroachment by relocating or removing the shed. Staff also sought clarification on the use of pervious pavers for the driveway and patio and the intimation that these pavers would be 100% pervious. Staff questions whether pervious pavers are truly 100% pervious and advised the property owner to provide the County with product specifications for verification purposes. Ultimately, because the property owner did not include allowance to exceed the maximum allowable amount of impervious surface coverage in the request for Variance, the subject site will be limited to a maximum amount of 25% until and unless a separate Variance request is submitted and granted.

The property owner has provided a written narrative to explain what she's hoping to accomplish through this Variance request. The narrative also loosely and partially explains how the request addresses the State mandated practical difficulty standard:

- The Township Right-of-Way and OHWL setbacks (south and north property boundaries) are at an angle to the sidelines (west and east property boundaries) reducing the buildable footprint substantially which makes this a unique building site. The [setback] Variance is necessary for the construction of [the proposed dwelling] which is an accessible design on the limited space available.
- The impervious surface coverage on this property will be 24.6% and will maintain the character of the area.

Staff would also offer that the subject site predates the County's adoption of official land use controls and is considered legal non-conforming in terms of lot area and lot width, which the County refers to as pre-existing development. Pre-existing development is often cited by the Board as a basis to establish uniqueness of a subject property.

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

	RRI District / Shoreland Management District Standards	Proposed
Road Setback	40' to Township Right-of-Way	27.97'
Ordinary High Water Level (OHWL) Setback	50' (for sewered properties)	53'±
Side Yard Setback	10' for dwelling and attached garage	8.7' (west) and 10' (east)
Impervious Surface Coverage	25%	24.6%

REVIEW PROCESS

The Technical Review Committee met with Carrie Penshorn & Dan Sonnen on December 11, 2024. The group reviewed details of the request and discussed impervious surface coverage concerns as detailed in the Proposal Analysis section above. The Committee did not identify any other immediate concerns.

The Chisago Lake Town Board considered the request on December 17, 2024 and recommended approval with no conditions and a comment of “not out of alignment with adjacent”.

The State mandated 60-day review period will expire on January 31, 2025.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report.

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 property owner has suggested that the shape of the subject site is a unique characteristic or exceptional and extraordinary circumstance. Staff would also offer that the subject site, having been created prior to the County’s adoption of official land use controls, is smaller in area and width than required by current standards, which constitutes pre-existing development, and the property owners had no control over this circumstance.

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 necessarily deprive the property owner of rights commonly enjoyed by other RRI District / Shoreland Management District properties. Properties located in the RRI District / Shoreland Management District have the right to be developed with dwellings and the subject site has been developed with a

cabin (the County does not make a distinction between dwellings and cabins). However, given that the cabin is not suitable for year-round use and could only be made more permanent / expanded / intensified with Variance approval, staff does agree that literal interpretation of the Zoning Ordinance could potentially deprive the property owner of rights to use the subject property in the same manner (i.e., year-round dwelling) as other properties in the RRI District / Shoreland Management 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;

The circumstances of lot configuration and pre-existing development are not results of actions of the current property owner or any previous owners under the current Zoning and Shoreland Management Ordinances. The subject site was created 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;

Dwellings and attached garages are Permitted Uses in the RRI 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;

Given the lot area, lot dimensions, and lot configuration, staff does believe that the property owner has presented a proposal which includes the least amount of Variance needed. While the request for Variance does include two separate setback Variances, it appears to staff that the property owner has made a conscious effort to redevelop the subject site with a reasonably sized dwelling (in comparison to the property itself) and has made effort to protect South Center Lake by keeping the amount of impervious coverage under the maximum allowable amount of 25% and ensure that vehicles will not obstruct the Old Holt Court Right-of-Way.

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 dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

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

The 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 northerly 8'-20' of the subject site are located within a FEMA flood zone, the proposed dwelling and attached garage are shown to be 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>The applicant has provided a survey showing that, even with the reduced westerly side yard setback, there will be 24.8' separating the proposed dwelling and the westerly neighboring dwelling. Additionally, the survey shows that the proposed dwelling will meet the required 10' easterly side yard setback. Therefore, the County finds that the proposed dwelling with attached garage will be situated such that it will not impair an adequate supply of light and air to adjacent neighboring dwellings. The southerly property boundary is adjacent to a public Right-of-Way and the northerly property boundary is adjacent to a public body of water, where there are no impacts on the supply of light and air to other dwellings / properties.</i>
Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
Finding #2	<i>The proposed action will not change the primary use of the subject site or directly cause an increase in the number of residents; therefore, the County finds that the proposed dwelling with attached garage will not cause any</i>

increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on Old Holt Court or surrounding Township roads.

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

Finding #3 *The permit holder will be required to obtain a building permit prior to construction of the proposed dwelling with attached garage and the structure will, therefore, be constructed in compliance with all applicable codes. The County finds that this compliance 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 *The subject site is currently developed with a seasonal cabin and the proposed action will not change the fact that the property is used for residential purposes. The proposed dwelling with attached garage will meet the required easterly side yard setback of 10' and will maintain a separation of 24.8' from the westerly neighboring dwelling where there is greatest potential for impact to surrounding properties. Therefore, the County finds no evidence to suggest that the proposed action will have 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 subject site is currently used for residential purposes and the proposed action will not change how the property is used. The site is served by municipal sewer and a private well and is accessed by a well-established Township road (Old Holt Court). The County finds that the proposed action will not create any strain or increased impact upon existing facilities and services.*

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

Finding #6 *The County finds no evidence to suggest that the proposed action will have any negative fiscal impact on the County or school district. The County finds that the proposed action, resulting in a new year-round dwelling, will likely 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 5.15 is to establish minimum structural setback requirements, including setbacks from the Township Right-of-Way and side yard. While the proposed dwelling with attached garage will encroach on the required Township Right-of-Way and westerly side yard setbacks, the County finds that the request is reasonable in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

STAFF RECOMMENDATION

While staff does have concern with the proposed amount of impervious surface coverage and, more specifically, the intimation that the proposed pervious pavers are truly 100% pervious, staff is offering support for the full request as submitted, with a condition to address the concern. Therefore, barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the requested Variance with draft Findings of Fact (see above) and recommended conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended conditions:

1. This approval grants the following Variances:
 - a. a 12.03' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 27.97' from the Right-of-Way boundary.
 - b. a 1.3' Variance to the westerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8.7' from the west property boundary.
2. In accordance with the Chisago County Shoreland Management Ordinance and the application for Variance, the maximum allowable amount of impervious surface coverage shall be 25%. In order to ensure compliance, the permit holder shall submit product specifications for the proposed pervious pavers to the Department of Environmental Services for verification prior to installation of said pavers.
3. Being that the permit holder also owns the westerly adjacent property identified as PID 02.00014.00, the permit holder shall relocate or remove the shed situated on PID 02.00014.00 such that it will no longer be situated on the shared property boundary / encroach on the subject site.

4. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage shall comply with all applicable codes and regulations except as conditioned herein.
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.
3. **Table** action to allow for further review and consideration. The current review period expires on January 31, 2025, allowing the Board to continue its review at the January 30, 2025 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-1201, a resolution approving a Variance allowing reduced Township Right-of-Way and westerly side yard setbacks on property located at 14150 Old Holt Court in Chisago Lake Township, as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Survey – Existing Conditions
 - d. Survey – Proposed Conditions
 - e. Impervious surface calculations worksheets
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-1201



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 2024-2229

Township LINDSTROM S/T/R 3/33/20 PID# 02600613100

Project Address 14150 OLD HOLT CT LINDSTROM

Property Owner(s) CARRIE PENSCHORN

Mailing Address (If Different from Project Address) 14144 OLD HOLT CT. LINDSTROM MN 55045

Phone# [REDACTED] Email [REDACTED]

Applicant(s) CARRIE PENSCHORN

Mailing Address (If Different from Project Address) 14144 OLD HOLT CT LINDSTROM MN 55045

Phone# [REDACTED] Email [REDACTED]

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 TO WEST SIDE OF 113 FEET AND TOWNSHIP RIGHT OF WAY SETBACK OF 121 FEET

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

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

Carrie Penshorn
Applicant Signature

11/20/24
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>10-21-24 # 11-20-24</u>
Recording Fee	\$ <u>46-</u>	Application Complete	<u>12-2-24</u>
Plat Fee - No Road(s) / With Road(s)	\$ _____	60/120 Day Review Period	<u>1-31-25</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 LINDSTROM S/T/R 3/33/20 PID# 02.00013.00
Project Address 14150 OLD HOLT CT LINDSTROM MN 55045
Property Owner(s) CARRIE PEARSHORN

Mailing Address (If Different from Project Address) /

Phone#

Email

Applicant(s) CARRIE PEARSHORN

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 TO WEST SIDE LINE OF
1.3 FEET AND TOWNSHIP RIGHT OF WAY SET BACK OF 12.1

Applicant Signature

Date of Application

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

Date of County Public Hearing DEC. 23, 2024

Date of Township Presentation DEC. 17, 2024

Township Action Taken (Township Use Only)

☒ Recommendation of Approval

☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

not out of alignment with adjacent

Signatures of Township Officials or Authorized Personnel

[Signature] [Signature] [Signature]

To: Chisago County Department of Environmental Services

The property at 14150 Old Holt Court, Lindstrom MN was purchased by Robert and Patricia Penshorn in 1952 and as of August 2024 the property was transferred to me, Carrie Penshorn. I have lived on the property on the west side at 14144 Old Holt Court for 35 years. My sister, Julie Penshorn, lives on the east side at 14160 Old Holt Court.

We are planning on removing the existing structure and building a handicap home at that location due to the fact that I have mobility issues. The existing structure does not meet existing building codes and does not have a heating system so has only been used as a summer cabin.

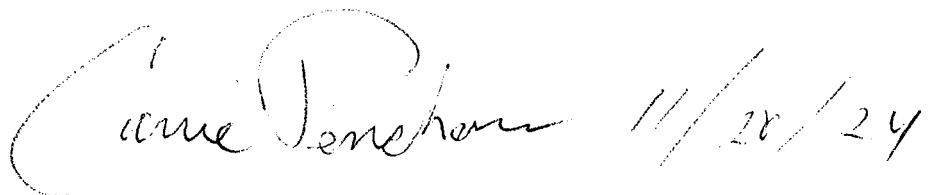
This lot is a non-conforming lot. The township right of way and high water setbacks are at an angle to the sidelines reducing the buildable footprint substantially which makes this a unique building site of 1300 square feet.

Using the existing structure as a starting point we are requesting a west side variance of 1.3 feet from a 10 foot setback to 8.7 feet. A front variance of approximately 12.1 feet which would be 27.9 feet from the front property line. The north side of the structure would be 3 feet from the 50 foot high water setback. This hardship variance is necessary for the construction of this structure which is a handicap accessible design on the limited space available.

There is no parking allowed on Old Holt Court so we have included a garage and an area for off street parking. There is a sanitary sewer system at this location. A new well will be installed as well as a pervious driveway and patio. Existing concrete walkways, wood retaining walls and wood deck on the lakeside will be removed. The new structure will be built to building code 2015 energy code. The impervious surface on this property will be 24.6% and will maintain the character of this area.

Thank you,

Carrie Penshorn

Handwritten signature of Carrie Penshorn and the date 11/28/24.

EXISTING CONDITIONS

EXISTING PROPERTY DESCRIPTION:

(Quitclaim Deed Doc. No. 270164) - That certain part of Government Lot 2, Section 3, Township 33, Range 20, described as follows.

Beginning at the South East corner of J.G. Holt's Beach, according to the plat thereof on file and of record in the office of Register of Deeds of Chisago County Minnesota; thence Southeastly along an extension of the South line of Lot 22 of J.G. Holt's Beach, a distance of 8.5 feet to Westerny edge of road; thence South 14 degrees 30 feet West along the westerny line of a public road for 202.5 feet; thence South 81 degrees 45 minutes West along the northerny line of an easement roadway for 337 feet; thence South 26 degrees 45 minutes East for ten feet; thence South 46 degrees 35 minutes West, continuing along the northerny line of said easement roadway for 114 feet to the point of beginning of the tract hereby described - Thence South 46 degrees 35 minutes West, continuing along the northerny line of said easement roadway, for 57 feet; thence North 26 degrees 45 minutes West for 140 feet; more or less, to the shore of South Center Lake; thence North 46 degrees 35 minutes East along said lake shore for 57 feet; thence South 26 degrees 45 minutes East for 140 feet, more or less, to the point of beginning - and including all riparian rights.

To give access to described tract an easement roadway, 33 feet wide, is hereby granted and described as follows, to-wit:

Beginning at the aforesaid SE corner of J.G. Holt's Beach; thence Southeastly along an extension of the South line of Lot 22 of J.G. Holt's Beach, a distance of 8.5 feet to the westerny edge of road; thence South 14 degrees 30 minutes West along the westerny line of a public road for 202.5 feet to the point of beginning of the roadway to be described; thence South 81 degrees 45 minutes West for 337 feet; thence South 26 degrees 45 minutes East for 10 feet; thence South 46 degrees 35 minutes West for 367 feet; thence South 19 degrees 56 minutes East for 35.98 feet; thence North 46 degrees 35 minutes East for 390 feet; thence North 81 degrees 45 minutes East for 302 feet, more or less, to the westerny line of aforesaid public road; thence northernly along said road line to the point of beginning.

"Subject to the condition that the said parties of the second part, their grantees, heirs, and assigns forever shall not maintain or permit to be maintained any public boat landing or tavern selling beer or liquor on said premises."

(Trustee's Deed Doc. No. A-557766) - All that part of Government lot 2, Section 3, Township 33, Range 20, described as follows, to-wit:

Commencing at an iron monument at the SE corner of Lot 22 of J.G. Holt's Beach on Chisago Lake, according to the plat thereof on file and of record in the office of the Register of Deeds of Chisago County, Minnesota; thence southeasterly in continuation of the south line of Lot 22 of J.G. Holt's Beach, 8.5 feet to the westerny edge of road; thence South 14°30' West along the westerny line of a public road for 202.5 feet; thence South 81°45' West along the northerny line of an easement roadway for 337 feet; thence South 26°45' East for 10 feet; thence South 46°35' West, continuing along the northerny line of an easement roadway, for 171 feet to the point of beginning of the tract hereby described - thence North 26°45' West for 140 feet, more or less, to the shore of South Center Lake; thence South 46°35' West along said lake shore for 57 feet; thence South 26°45' East for 140 feet, more or less, to aforesaid easement roadway; thence North 46°35' East along said roadway to the initial point - and including all riparian rights.

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and

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LEGEND

ORDINARY HIGH WATER LINE

BITUMINOUS SURFACE

CONCRETE SURFACE

LANDSCAPE ROCKS

RIP RAP

WATER WELL

LP TANK

DENOTES A FOUND 1" IRON PIPE
UNLESS LABELED OTHERWISE

DENOTES SET 1/2 INCH IRON PIPE

CAP NO. 42648

ELEC LIGHT POLE

TELEPHONE PEDESTAL

GAS METER

ELEC METER

AC UNIT

GUY ANCHOR

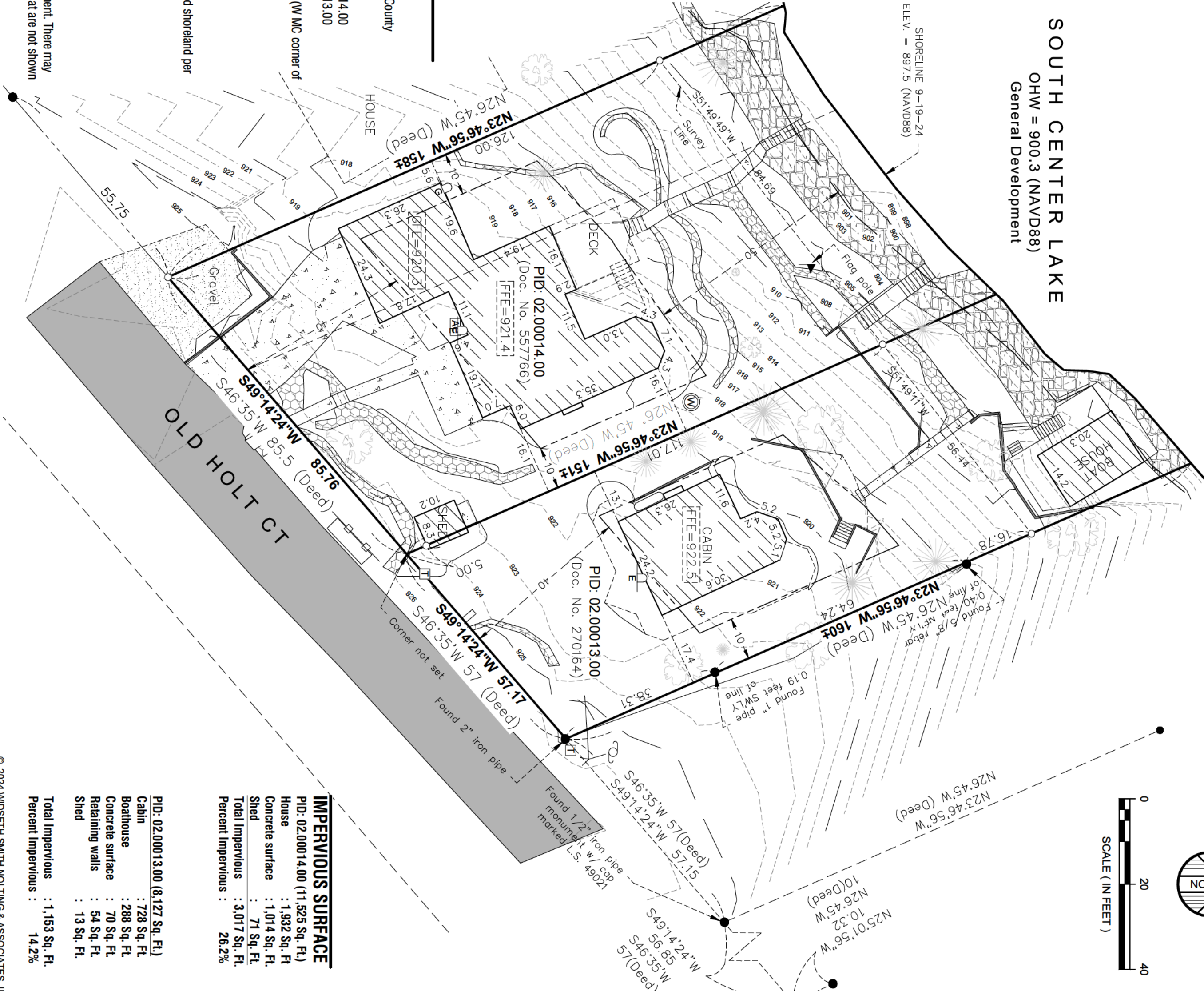
TREE CONIFER

TREE DECIDUOUS

SURVEY NOTES:

- Orientation of this bearing system is based on the Chisago County Coordinate System NAD83 (1996 adj.)
 - 141'44" Old Holt CT, Lindstrom, MN 55045, PID No. 02.00014.00 141'50" Old Holt CT, Lindstrom, MN 55045, PID No. 02.00013.00
 - Vertical control: Chisago County Section corner monument (W MC corner of Sec. 3, Twp. 33, Rng. 20) Elev. = 901.83 (NAVD88)
 - Property areas:
PID No. 02.00014.00 = 11,525 Sq. Ft. or 0.26 Acres
PID No. 02.00013.00 = 8,127 Sq. Ft. or 0.19 Acres
 - The property is zoned RR-1 - Rural Residential 1 District and shoreland per the Chisago Lake Township (S) Zoning Map.
Building Setbacks (Per Chisago County Zoning Ordinance Dimensional Standards):
Front Yard/Right Of Way : 40 feet
Side Yard : 10 feet
Ordinary High Water : 50 feet
(South Center Lake - General Development and sewer)
6. This survey was done without the benefit of a title commitment. There may be additional easements that affect the subject properties that are not shown on the survey.

SOUTH CENTER LAKE OHW = 900.3 (NAVD88) General Development



IMPERVIOUS SURFACE

PID: 02.00014.00 (11,525 Sq. Ft.)
House : 1,932 Sq. Ft.
Concrete surface : 1,014 Sq. Ft.
Shed : 71 Sq. Ft.
Total Impervious : 3,017 Sq. Ft.
Percent Impervious : 26.2%

PID: 02.00013.00 (8,127 Sq. Ft.)
Cabin : 728 Sq. Ft.
Boathouse : 288 Sq. Ft.
Concrete surface : 70 Sq. Ft.
Retaining walls : 54 Sq. Ft.
Shed : 13 Sq. Ft.

Total Impervious : 1,153 Sq. Ft.
Percent Impervious : 14.2%

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DATE	October 2024	DATE		BY	
SCALE:	AS SHOWN				
DRAWN BY:	JAS				
CHECKED BY:	KJL				
FILE NUMBER:	2024-11637				

PREPARED FOR: DANIEL SONNEN	
I HEREBY CERTIFY THAT THIS SURVEY PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA	
<i>Kathy L. Jordan</i>	DATE: 10/30/2024, LIC. NO. 72848

WIDSETH
ARCHITECTS ■ ENGINEERS ■ SCIENTISTS ■ SURVEYORS

PROPOSED CONDITIONS

EXISTING PROPERTY DESCRIPTION:

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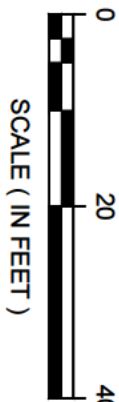
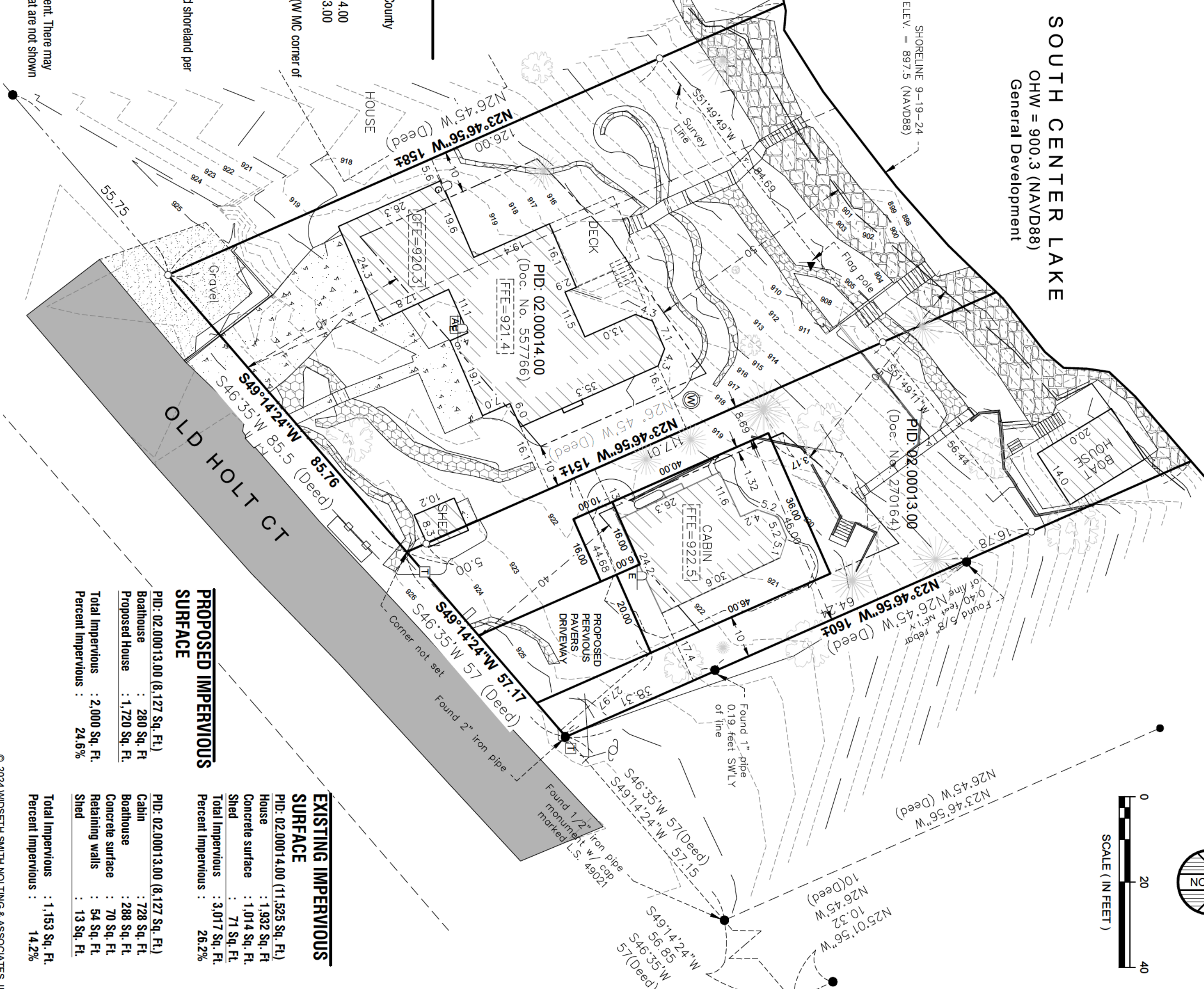
AC UNIT

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Front Yard/Right Of Way : 40 feet
Side Yard : 10 feet
Ordinary High Water : 50 feet
(South Center Lake - General Development and sewer)
6. This survey was done without the benefit of a title commitment. There may be additional easements that affect the subject properties that are not shown on the survey.

PROPOSED IMPERVIOUS SURFACE

PID: 02.00013.00 (8,127 Sq. Ft.)	
Boathouse	: 280 Sq. Ft.
Proposed House	: 1,720 Sq. Ft.
Total Impervious	: 2,000 Sq. Ft.
Percent Impervious	: 24.6%

EXISTING IMPERVIOUS SURFACE

PID: 02.00014.00 (11,525 Sq. Ft.)	
House	: 1,932 Sq. Ft.
Concrete surface	: 1,014 Sq. Ft.
Shed	: 71 Sq. Ft.
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Retaining walls	: 54 Sq. Ft.
Shed	: 13 Sq. Ft.
Total Impervious	: 1,153 Sq. Ft.
Percent Impervious	: 14.2%

DATE:	November 2024	DATE		AMENDMENTS	BY	PREPARED FOR: DANIEL SONNEN
SCALE:	AS SHOWN					I HEREBY CERTIFY THAT THIS SURVEY PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA
DRAWN BY:	JAS					
CHECKED BY:	KJL					
FILE NUMBER:	2024-11637					
						DATE: 11/05/2024 LIC. NO. 42648
						Keely L. Jordan

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

EXISTING

AREA OF PARCEL

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

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		=	<i>728</i>
garage		=	
deck		=	
patio		=	
sidewalk		=	<i>70</i>
driveway		=	
other; list:		=	
<i>BOAT HOUSE</i>	<i>20 X 14</i>	=	<i>280</i>
<i>RETAINING WALLS</i>		=	<i>54</i>
<i>SILED</i>		=	<i>13</i>
TOTAL RESIDENTIAL STRUCTURES		=	<i>1153</i>

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:		=	
		=	
TOTAL OTHER ITEMS		=	

Calculate:

Total from "Residential Structures" *1153* +

Total from "Agricultural Structures" +

Total from "Other Items" +

Total square footage of coverage: *8127* =

(divide by total area of parcel above)

TOTAL IMPERVIOUS SURFACE *14.2* %

signature

date

corresponding permit number

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

PROPOSED

AREA OF PARCEL

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

OR	Total area of parcel in square feet
	8,127

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		=	1720
garage		=	
deck		=	
patio		=	
sidewalk		=	
driveway		=	
other; list:			
BOAT HOUSE	20 x 14	=	280
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			2000

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:			
		=	
		=	
TOTAL OTHER ITEMS			

Calculate:

Total from "Residential Structures":	2000	+
Total from "Agricultural Structures":		+
Total from "Other Items":		+
Total square footage of coverage:	8127	=
(divide by total area of parcel, above)		/
TOTAL IMPERVIOUS SURFACE	24.6	%

Cause Penhawn
signature

11-8-24
date

corresponding permit number

Carrie Penshorn – Property owner Carrie Penshorn is requesting a Variance allowing for reduced Township Right-of-Way and westerly side yard setbacks for the purpose of redeveloping the property with a new dwelling and attached garage. The .19± acre subject site is zoned Rural Residential I (RRI) District / Shoreland Management District and located at 14150 Old Holt Court in Chisago Lake Township, S3, T33, R20 (PID 02.00013.00).



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RESOLUTION NO. BOAA2024-1201
A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING REDUCED TOWNSHIP RIGHT-OF-WAY
AND WESTERLY SIDE YARD SETBACKS ON PROPERTY LOCATED AT
14150 OLD HOLT COURT IN CHISAGO LAKE TOWNSHIP

WHEREAS, property owner Carrie Penshorn submitted an application dated received November 20, 2024 and deemed complete on December 2, 2024 for a Variance to Zoning Ordinance Section 5.15; and

WHEREAS, the property owner is seeking Variance approval for a reduced Township Right-of-Way setback and a reduced westerly side yard setback for the purpose of redeveloping the property with a new dwelling and attached garage; and

WHEREAS, the .19± 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 02.00013.00

That certain part of Government Lot 2, Section 3, Township 33, Range 20, described as follows:

Beginning at the South East corner of J.G. Holt's Beach, according to the plat thereof on file and of record in the office of Register of Deeds of Chisago County Minnesota; thence Southeasterly along an extension of the South line of Lot 22 of J.G. Holt's Beach, a distance of 8.5 feet to Westerly edge of road; thence South 14 degrees 30 feet West along the westerly line of a public road for 202.5 feet; thence South 81 degrees 45 minutes West along the northerly line of an easement roadway for 337 feet; thence South 26 degrees 45 minutes East for ten feet; thence South 46 degrees 35 minutes West, continuing along the northerly line of said easement roadway for 114 feet to the point of beginning of the tract hereby described - Thence South 46 degrees 35 minutes West, continuing along the northerly line of said easement roadway, for 57 feet; thence North 26 degrees 45 minutes West for 140 feet; more or less, to the shore of South Center Lake; thence North 46 degrees 35 minutes East along said lake shore for 57 feet; thence South 26 degrees 45 minutes East for 140 feet, more or less, to the point of beginning - and including all riparian rights.

To give access to described tract an easement roadway, 33 feet wide, is hereby granted and described as follows, to wit:

Beginning at the aforesaid SE corner of J.G. Holt's Beach; thence Southeasterly along an extension of the South line of Lot 22 of J.G. Holt's Beach, a distance of 8.5 feet to the westerly edge of road; thence South 14 degrees 30 minutes West along the westerly line of a public road for 202.5 feet to the point of beginning of the roadway to be described; thence South 81 degrees 45 minutes West for 337 feet; thence South 26 degrees 45 minutes East for 10 feet; thence South 46 degrees 35 minutes West for 367 feet; thence South 19 degrees 56 minutes

East for 35.98 feet; thence North 46 degrees 35 minutes East for 390 feet; thence North 81 degrees 45 minutes East for 302 feet, more or less, to the westerly line of aforesaid public road; thence northerly along said road line to the point of beginning.

"Subject to the condition that the said parties of the second part, their grantees, heirs, and assigns forever shall not maintain or permit to be maintained any public boat landing or tavern selling beer or liquor on said premises."

WHEREAS, notice was provided and on December 23, 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/or representative, 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 applicant has provided a survey showing that, even with the reduced westerly side yard setback, there will be 24.8' separating the proposed dwelling and the westerly neighboring dwelling. Additionally, the survey shows that the proposed dwelling will meet the required 10' easterly side yard setback. Therefore, the County finds that the proposed dwelling with attached garage will be situated such that it will not impair an adequate supply of light and air to adjacent neighboring dwellings. The southerly property boundary is adjacent to a public Right-of-Way and the northerly property boundary is adjacent to a public body of water, where there are no impacts on the supply of light and air to other dwellings / properties.

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

Finding #2 The proposed action will not change the primary use of the subject site or directly cause an increase in the number of residents; therefore, the County finds that the proposed dwelling with attached garage will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on Old Holt Court or surrounding Township roads.

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

Finding #3 The permit holder will be required to obtain a building permit prior to construction of the proposed dwelling with attached garage and the structure will, therefore, be constructed in compliance with all applicable codes. The

County finds that this compliance 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 *The subject site is currently developed with a seasonal cabin and the proposed action will not change the fact that the property is used for residential purposes. The proposed dwelling with attached garage will meet the required easterly side yard setback of 10' and will maintain a separation of 24.8' from the westerly neighboring dwelling where there is greatest potential for impact to surrounding properties. Therefore, the County finds no evidence to suggest that the proposed action will have 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 subject site is currently used for residential purposes and the proposed action will not change how the property is used. The site is served by municipal sewer and a private well and is accessed by a well-established Township road (Old Holt Court). The County finds that the proposed action will not create any strain or increased impact upon existing facilities and services.*

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

Finding #6 *The County finds no evidence to suggest that the proposed action will have any negative fiscal impact on the County or school district. The County finds that the proposed action, resulting in a new year-round dwelling, will likely 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 5.15 is to establish minimum structural setback requirements, including setbacks from the Township Right-of-Way and side yard. While the proposed dwelling with attached garage will encroach on the required Township Right-of-Way and westerly side yard setbacks, the County finds that the request is reasonable in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it*

will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

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 the following Variances:
 - a. a 12.03' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 27.97' from the Right-of-Way boundary.
 - b. a 1.3' Variance to the westerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8.7' from the west property boundary.
2. In accordance with the Chisago County Shoreland Management Ordinance and the application for Variance, the maximum allowable amount of impervious surface coverage shall be 25%. In order to ensure compliance, the permit holder shall submit product specifications for the proposed pervious pavers to the Department of Environmental Services for verification prior to installation of said pavers.
3. Being that the permit holder also owns the westerly adjacent property identified as PID 02.00014.00, the permit holder shall relocate or remove the shed situated on PID 02.00014.00 such that it will no longer be situated on the shared property boundary / encroach on the subject site.
4. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage shall comply with all applicable codes and regulations except as conditioned herein.
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 23rd day of December, 2024.

Gregg Carlson _____
Douglas Greene _____

John Sutcliffe _____
Charles Yeager _____

Douglas Greene
Acting Chair

ATTEST: _____
Beth Gervais
Land Services Coordinator