

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, June 7, 2018 at 6:01 p.m.**

I. Call to Order

The meeting was called to order by Chair Mike Streiff
Members present were: Mike Streiff, Charlie Peters, Tom Sammon, and Aramis Wells,
Members absent were: Preston Bauer, Staff present were: Director Julie Runkel, Zoning
Adminsitrator Trent McCorkell, and Planner Nicole Bonde Jones.
Others present: see sign in sheet.

A. Roll Call -

B. Motion by Peters, seconded by Wells, to approve the agenda as presented.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters, Wells

MS - One modification to the agenda, potentially moving item number 2 to the end, allowing applicant time to get to meeting.

C. Motion by Sammon, seconded by Peters, to approve the minutes of May 3, 2018.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters, Wells

II. Old Business

III. New Business

1. Variance/Wirtzfeld (Paulson) - Section 6, Morristown Township

Tom Wirtzfeld, on behalf of Doyle & Nancy Paulson, has applied for a 25-ft variance request from the 75-ft setback to allow for a septic system to be 50-ft from Horseshoe Lake. The property is described as: Lot 2, Block 5, in Replat of Horseshoe Hills in Section 6, Morristown Township, Rice County, Minnesota. The property address is: 21918 Lind Trl, Waterville, MN 56096. PID #: 13.063.76.010. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Peters, seconded by Sammon, to approve the variance request with the following conditions and findings for Tom Wirtzfeld, on behalf of Doyle & Nancy Paulson. The property is located in Section 6 of Morristown Township.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Sammon, Peters, Wells
ABSENT:	Bauer

CONDITIONS OF APPROVAL

If approved, conditions might include:

1. The variance is to allow for a septic soil treatment/dispersal system be placed 50-ft from Horseshoe Lake, subject to compliance with all other Ordinance regulations.
2. The approved Septic Design/Site plan shall be followed.

3. Proper Septic permits shall be obtained prior to any onsite construction.
4. Erosion control measures to be employed and construction area seeded/mulched to deter erosion until vegetation established.
5. Variance shall be considered void if Septic permits are not obtained and construction commenced within one year of the variance approval.
6. Failure to comply with the terms of this variance will result in termination of the Variance.

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

The BOA asked the applicant, Doyle Paulson (DP), to come forward to add comments or answer questions regarding the request.

DP stated that several different people have looked at this and due to the slope of the hill, it would be difficult to place septic. Tom Wirtzfeld came up with a design of an advanced system with an UV light pre-treatment. This option works best as a long term solution.

Chair Streiff opened the public testimony portion of the item to the public and no one spoke:

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

Discussion:

MS: Is applicant aware of conditions?

DP: yes, and all makes sense.

CP- After reviewing request and looking at site the proposed design is the only viable system for the property and pre-treatment looks like a good plan to me.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

The findings were read by Charlie Peters with the conditions as stated above:

TM: Additional findings: Replacement system of existing home, topography.

Motion made, seconded, and approved.

2. Variance/Carlander - Section 25, Shieldsville Township

John Carlander, on behalf of KC Partnership LLP, has applied for a 17-ft variance from the 100-ft Road Right of Way setback to allow for an agricultural storage building to be 83-ft from the Road Right of Way of County Road 38. The property is described as: Part of the SW1/4 of the SE1/4 of Section 25, Shieldsville Township, Rice County, Minnesota. The property address is: 7401 Cedar Lake Blvd, Faribault, MN 55021. PID #: 09.25.4.50.001. The property is Zoned A, Agricultural.

Motion by Wells, seconded by Peters, to approve the variance request with the following conditions and findings for John Carlander, on behalf of KC Partnership LLP. This property is located in Section 25 of Shieldsville Township.

RESULT:	Approved [Unanimous]
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AYES:	Streiff, Sammon, Peters, Wells
ABSENT:	Bauer

CONDITIONS OF APPROVAL

If approved, conditions might include:

1. The variance is to allow for a 60-ft by 120-ft agricultural storage shed with up to a 29-ft peak height to be located 83-ft from the Road Right of Way of County Road 38, subject to compliance with all other Ordinance regulations.
2. Building shall only be used for storage of the landowner/farm operators' agricultural equipment. No storage of personal or business use.
3. Approved site plan shall be followed.
4. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

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

The BOA asked the applicant, John Carlander (JC), to come forward to add comments or answer questions regarding the request.

JC. - The location selected fits well with property for drainage accessibility, other option would be to the west which is on a separate parcel. He wants to put a future grain bin on that site. Accessibility best suited for this location, he had looked into building onto existing building but he could get a bigger building for better cost.

CP- distance due to doors?

JC- yes, gets too tight to put in equipment, and difficult to turn into if only separated by the setback required.

Chair Streiff opened the public testimony portion of the item to the public and no one spoke:

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

Discussion:

CP - county said no future work on road or issues with roadway, makes sense.

AW- agree, looks good.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

The findings were read by Aramis Wells with the conditions as stated above and with the following additions by staff:

TM: Additional Findings: proposed space between buildings needed for agricultural equipment, there is topography and elevation issues, other options explored, no issues from county Highway Department.

Motion made, seconded, and approved.

3. Variance/Rauenhorst - Section 7, Wheeling Township

David & Amanda Rauenhorst have applied for a 15-ft variance from the 20-ft property line setback to allow for an Agricultural building to be located 5-ft from a side property line. The property is described as: Part of the S1/2 of the NW1/4 of the SW1/4 of Section 7, Wheeling Township, Rice County, Minnesota. PID #: 12.07.3.00.003. The property is Zoned A, Agricultural.

Motion by Peters, seconded by Wells, to approve the variance request with the following conditions and findings for David & Amanda Rauenhorst. The property is located in Section 7 of Wheeling Township.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Sammon, Peters, Wells
ABSENT:	Bauer

CONDITIONS OF APPROVAL

If approved, conditions might include:

1. The variance is to allow for a 28-ft by 32-ft agricultural shed to be located 5-ft from a side property line, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA)
TM - pointed out typo in staff report - 14-ft peak height and 35 is maximum, so no issues with height.

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

AR: Really only place to build on lot due to the slope, this is for agricultural storage. The building will mostly be hidden from road.

Chair Streiff opened the public testimony portion of the item to the public and no one spoke:

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

Discussion:

TS - Topography dictates.

CP - About only one place it can go.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance

amendment are met by this proposal:

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: Property has been surveyed - exact location of building known. Additional Findings: Topography limits location, this is an agricultural structure in agricultural district.

Motion made, seconded, and approved.

4. Variance/Mueller - Section 35, Shieldsville Township

Matthew & Sherrie Mueller have applied for a 49-ft variance request from the 75-ft ordinary high water level setback and a 10-ft variance from the 10-ft side property line setback to allow for a series of five 48" to 58" high retaining walls and a deck. Also requested is a variance from the 25% lot impervious surface coverage and from the restriction of grading a slope of greater than 18%. The property is described as: the West 40-ft of the East 665-ft of Government Lot 2 in Section 35, Shieldsville Township, Rice County, Minnesota. The property address is: 8295 Hennepin Way, Morristown, MN 55052. PID #: 09.35.4.75.007. The property is Zoned GDS, General Development Shoreland.

Motion by Sammon, seconded by Peters, to approve the variance request with the following conditions and findings for Matthew & Sherrie Mueller. The property is located in Section 35 of Shieldsville Township.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Sammon, Peters, Wells
ABSENT:	Bauer

CONDITIONS OF APPROVAL

If approved, conditions might include:

1. The variance is to allow for a 10-ft by 20-ft deck and five 48" to 58" retaining walls 0-ft from the side property lines. Retaining walls are on a hill with a slope greater than 18%. Also allowing for a 35% lot impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. The approved site plan shall be followed.
3. A certificate of survey verifying property lines shall be submitted prior to issuance of any permits.
4. Proper permits shall be obtained for all un-permitted work and any remaining work prior to any remaining onsite construction.
5. A native vegetation buffer shall be established and maintained by the landowner. Buffer area shall include at least half of the lots shore frontage along Cedar Lake and extending to the first retaining wall. Proposed buffer species and location needs to be approved by the Rice County Environmental Services Office prior to planting. Planting must be completed no later than October 1, 2018 and must be maintained as a lakeshore buffer thereafter.
6. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.

7. Failure to comply with the terms of this variance will result in termination of the Variance

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

MS - After the fact?

TM - Yes, almost all after the fact, deck is not quite finished.

TS - How did you become aware about this?

TM - Believe the building inspector saw the work being done.

CP - Impervious surface area-where does that come into play?

TM - Deck and structures.

CP - Was he over before this?

TM - yes, there is some increase with the deck. Lot is 13,000 -Sq ft, most of impervious surface is the driveway. Condition added to require a certificate of survey, did receive some drawings but not a signed survey.

The BOA asked the applicant, Matthew Mueller (MM), to come forward to add comments or answer questions regarding the request.

MM - Has before photos of cabin prior to purchase in Spring of 2013. Summer of 2013 the steep hill was pushing against shed down on the lake, condition of staircase was unsafe, supporting posts were shifting towards lake, as for impervious surface the deck and staircase are significantly smaller than what was there previously, the hill was giving away and had to do something and put in the retaining wall.

MS - Building permit?

MM - First time cabin owner, did not realize he needed a permit, he has talked to Environmental Services staff about converting to natural restoration at shoreline.

CP - Do the walls extend into neighbors property?

MM - Neighbors also had extended into yard. Only top wall extends into neighbor. He has contacted surveyor.

Chair Streiff opened the public testimony portion of the item to the public and no one spoke:

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

Discussion:

CP - Appears more stable than before, not good - after the fact, but good to be stable.

TS - Don't like after the fact, but an improvement.

MS - Good to check the rules

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

The findings were read by Tom Sammon with the conditions as stated above and with the following additions by staff:

TM: Additional Findings: Replacing existing walls, buffer planting to mitigate view from water and impervious surface, an unusually small lot.

Motion made, seconded, and approved.

5. Variance/LaCanne - Section 35, Shieldsville Township

Raymond LaCanne has applied for a 10-ft variance from the 10-ft side yard setback to allow for a home and deck addition up to the side property line. The property is

described as: Part of Government Lot 2 and Lot 9, Block 1 of Cedar Heights subdivision in Section 35, Shieldsville Township, Rice County, Minnesota. The property addresses are: 8310 & 8315 Hennepin Way, Morristown, MN 55052. PID #'s: 09.35.4.75.012 & 09.35.4.52.003. The properties are Zoned GDS, General Development Shoreland.

Motion by Peters, seconded by Sammon, to approve the variance request with the following conditions and finding for Raymond LaCanne. The properties are located in Section 35 of Shieldsville Township.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Sammon, Peters, Wells
ABSENT:	Bauer

CONDITIONS OF APPROVAL

If approved, conditions might include:

1. The variance is to allow for a 10-ft by 30-ft home addition and a 10-ft by 13-ft deck addition 0-ft from the side property line and allowing for a 32% lot impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. The approved site plan shall be followed.
3. A certificate of survey verifying property lines shall be submitted prior to issuance of building permits.
4. Proper building permits shall be obtained prior to any onsite construction.
5. A 500-sqft native vegetation buffer shall be established and maintained by the landowner. Buffer area shall include at least 30-ft along the shore of Cedar Lake and extend a minimum of 15-ft landward. Proposed buffer species and location needs to be approved by the Rice County Environmental Services Office prior to planting. Planting must be completed no later than October 1, 2018 and must be maintained as a lakeshore buffer thereafter.
6. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
7. Failure to comply with the terms of this variance will result in termination of the Variance

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

TM - Added condition requiring a certificate of survey, due to the proposed project going right up to property line.

The BOA asked the applicant, Raymond LaCanne (RL), to come forward to add comments or answer questions regarding the request.

RL - Lots are quite small, so he bought the cabin next door to avoid having issues with property lines. He did not realize he couldn't have cabin on lot unless it was separate.

MS - How long have you owned both?

RL - 1988-main home and purchased adjacent lot with cabin 4 or 5 years ago.

Chair Streiff opened the public testimony portion of the item to the public and the no one spoke:

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

Discussion:

CP - Tight lots out there. Don't think of it as an issue.

MS - Agree, there are quite a few small tight lots.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM - Buffer planting to assist with view from lake and impervious surface, applicant owns property being encroached upon.

Motion made, seconded, and approved.

MnDot - No significant impact

IV. Other

V. Adjournment

Board of Adjustment Hearing Procedure:

The Chair calls the item to be heard and planning staff to present the staff report and answer questions from the members. The Chair asks the applicant to present their information and answer questions of the members. Chair then opens the meeting to the public. Each speaker will have a set number of minutes to present their information. They must come to the speaker stand and state their name and address before presenting their comments. After the public comments, the Board of Adjustment publicly discusses the information and reviews the findings before making a motion to recommend approval, denial or to continue the item.

Hearing no other items before the BOA, a motion was made by Charlie Peters, second by Tom Sammon, to adjourn the meeting at 6:40 pm. Motion carried 4-0.

Respectfully Submitted

Board of Adjustment Chair

**Pam Carty
Clerk**

Michael Streiff