

**OFFICIAL PROCEEDINGS OF THE  
RICE COUNTY BOARD OF ADJUSTMENT  
Commissioner's Room / Government Services Building  
Thursday, July 12, 2018 at 6:01 p.m.**

**I. Call to Order**

- A. Roll Call - The meeting was called to order by Chair Michael Streiff at 6:01p.m. Members present were: Michael Streiff, Preston Bauer, Tom Sammon, Charlie Peters, Aramis Wells. Staff present were: Zoning Administrator Trent McCorkell, Planner Nicole Bonde-Jones, Environmental Specialist Brad Behrens. Others present: see sign-in sheet.

**B. Reading of Notice**

**Motion by Peters, seconded by Wells, to read the notice into the minutes.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

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

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**D. Motion by Peters, seconded by Bauer, to approve the minutes of June 7, 2018.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**II. New Business**

**1. Variance / Staska - Section 8, Wells Township**

Jay Staska has applied for a 7-ft variance from the 10-ft side property line setback, a 40-ft variance from the lake setback and a 9% variance from the 25% lot impervious surface limitation to allow for replacement of a home. The property is described as: Part of the SE1/4 of the SW1/4 of Section 8, Wells Township, Rice County, Minnesota. The property address is: 16950 Elmore Way, Faribault, MN 55021. PID#: 10.08.3.75.010. The property is Zoned GDS, General Development Shoreland.

**Motion by Bauer, seconded by Sammon, to approve the variance request with the following conditions and findings for Jay Staska. The property is located in Section 8 of Wells Township.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**CONDITIONS OF APPROVAL - Staska**

1. The variance is to allow for a replacement home to be located 35-ft from French Lake and 3-ft from the north property line and also to allow for a 34% lot impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. An as-built certificate of survey shall be submitted to Rice County Environmental Services prior to issuance of a final certificate of occupancy for the new home.

4. 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 French Lake and extend a minimum of 15-ft landward. In addition at least three trees of a species native to Rice County shall be planted between the home and French Lake. Proposed tree and buffer species and locations need to be approved by the Rice County Environmental Services Office prior to planting. Plantings must be completed no later than June 1, 2019 and must be maintained as a lakeshore buffer and screening thereafter.

5. This variance shall be void if a building permit for the proposed home is not obtained within one year of the variance approval.

6. Failure to comply with the terms of this variance may result in termination of the Variance.

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**Hearing Minutes:**

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

The BOA asked the applicant, Jay Staska (JS), to come forward to add comments or answer questions regarding the request.

JS - I am requesting to demolish cabin and build a larger one. Current cabin is old and I am hoping to make it a permanent residence. I submitted a good plan and understand that I have to replace trees if I take any away. I am hoping to elevate the cabin to have stormwater flow away from the lake by placing berms on either side of the property.

MS - Are you aware of the 6 conditions.

JS - Yes.

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 - It seems pretty straight forward. It's basically just a replacement.

CP - Is it the same square footage?

TM - It will be roughly two to three times the size but the same distance from the lake. The site plan is in the packet. Some of the buildings on site are to be removed which will help with coming closer to meeting impervious surface requirements.

PB - With establishing native vegetation, it will be a nice project and property when done.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;

- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

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

TM: They are replacing an existing cabin in a similar location. Trees and buffer will help with water runoff and screening. It has an offsite septic. There are similar lots nearby with buildings of similar height and it is a very small lot.

Motion made, seconded, and approved.

**2. Variance / Ahlman - Section 5, Warsaw Township**

Benjamin & April Ahlman have applied for a 50-ft variance from the 50-ft road right of way setback requirement and a 55-ft variance from the 75-ft lake setback requirement to replace an existing cabin. The property is described as: Lot 10 of Anderson's Subdivision in Section 5, Warsaw Township, Rice County, Minnesota. The property address is: 5190 Cannon Lake Trl, Faribault, MN 55021. PID#: 14.05.4.76.008. The property is Zoned GDS, General Development Shoreland.

**Motion by Peters, seconded by Wells, to approve the variance request with the following conditions and findings for Benjamin & April Ahlman. The property is located in Section 5 of Warsaw Township.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**CONDITIONS OF APPROVAL - Ahlman**

1. The variance is to allow for a replacement cabin to be 0-ft from the Cannon Lake Trail Road Right of Way and 20-ft from the Ordinary High Water level of Cannon Lake, subject to compliance with all other Ordinance regulations.
2. The approved site plan shall be followed.
3. A certificate of survey verifying as-built setbacks and elevations shall be submitted prior to a final certificate of occupancy being issued.
4. The existing lakeshore vegetation shall be maintained.
5. A permit for working within the Road Right of Way shall be obtained from the Rice County Highway Department.
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.

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**Hearing Minutes:**

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

TS - Are there any residences across the road?

TM - Yes, there are residences across the road and set back from the road.

PB - Does the Highway department have any concerns?

TM - The Highway department commented on the road right of way by doesn't foresee any major projects and is OK with this.

TS - Do they meet shoreline vegetation requirements?

TM - Yes, they would be right at the 25% impervious surface limitation.

CP - Can you go back and show pictures of the wall?

*TM showed picture*

TM - if they were to replace this wall, they would have to show why the area can't be replaced with grading and vegetation.

The BOA asked the applicant, Benjamin & April Ahlman (BA & AA), to come forward to add comments or answer questions regarding the request.

BA - We bought this cabin 6 years ago. Over the last couple of years the cabin has started sinking. Our contractor say it would be an enormous undertaking to lift the cabin and add a foundation. It would be better to build a new cabin. It looks ok from the outside, but needs works inside. We are not going any closer to the lake. We are limited on our options because we are pitched in between the road and the lake.

PB - Do you plan on bringing fill in?

BA - Yes, there will be more fill on one side than the other but will be slab on grade.

MS - Are you aware of the 7 conditions?

BA - Yes we are.

TS - Is it a single story cabin?

BA - It has a loft, so it is 2 stories. It is 22-ft high, less than the 35-ft height limitation. It needs to be 960-sqft of living space, so we added the loft o meet the 960-sqft.

MS - So it is one floor and a loft?

BA - Yes.

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

Steve and Julie Lippert - We own the property and the farmland across the street. We believe we own property on the west end of theirs and we need to look at the deed and abstract to determine where exactly land our land ends and theirs starts. We will be figuring out soon how much they own. We need to find the deed and abstract for the lakeshore.

*Applicant came back up.*

BA- We knew nothing about this until tonight. I am not sure if it matters but this is the first we are hearing of it.

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

Discussion:

TM - adding a condition of requiring a survey should take care of the property line issue. The concern the Lippert's have I son the very South end of the property and not where the cabin in located.

PB - It looks like an interesting project. If a survey show an issue or problem, there will need to be further discussion.

*TM explained the vegetative buffer.*

CP - I think it should be good to go if the survey comes back OK.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

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

TM: It is an existing platted lot that is very small. They are replacing an existing old cabin and by doing so addresses the flood plain issue.

Motion made, seconded, and approved.

**3. Variance / Smith - Section 8, Wheatland Township**

Trevor & Katherine Smith have applied for a 70-ft variance from the 100-ft road right of way setback to allow for a new detached garage. The property is described as: Part of the NE1/4 of the SW1/4 of Section 8, Wheatland Township, Rice County, Minnesota. The property address is: 11496 45th St W, New Prague, MN 56071. PID#: 01.08.3.00.001. The property is Zoned A, Agricultural.

**Motion by Peters, seconded by Sammon, to approve the variance request with the following conditions and findings for Trevor & Katherine Smith. The property is located in Section 8 of Wheatland Township.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**CONDITIONS OF APPROVAL - Smith**

1. The variance is to allow for a 36-ft by 45-ft accessory garage located 30-ft from the Road Right of Way of 45<sup>th</sup> St., 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.

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## Hearing Minutes:

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

The BOA asked the applicant, Trevor & Katherine Smith (TrS & KS), to come forward to add comments or answer questions regarding the request.

TrS - We don't have much to add. It is an open spot and an ideal location. It is a good spot for the garage with no negative effects on the property or the right of way. The existing house is about 33-ft from the right of way and we are not getting any closer to the road than house.

MS - Are you aware of the 4 conditions?

TrS - Yes

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 - This is a pretty easy one.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

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

TM: The building will be setback quite a bit from the roadway due to the large Right of Way and there is adequate screening.

Motion made, seconded, and approved.

#### **4. Variance / Roufs - Section 3, Warsaw Township**

Dale & Stacey Roufs have applied for a 9-ft variance from the 50-ft road right of way setback requirement, a 5-ft height variance from the 14-ft height limitation, and a 1,968-sf size variance from the of 1,200-sf size limitation to allow for a detached storage building. The property is described as: Part of the NE1/4 of the SW1/4 of Section 3, Warsaw Township, Rice County, MN. The property address is: 21694

Morristown Blvd, Faribault, MN 55021. PID#: 14.03.3.00.003. The property is Zoned GDS, General Development Shoreland.

**Motion by Sammon, seconded by Bauer, to approve the variance request with the following conditions and findings for Dale & Stacey Roufs. The property is located in Section 3 of Warsaw Township.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**CONDITIONS OF APPROVAL - Roufs**

1. The variance is to allow for a 3168-sqft accessory use building with a 19-ft peak height that is 41-ft from the road right of way, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. The proposed building shall be used for personal onsite accessory use only and will not be used for any residential, business or other uses.
4. The existing vegetation between the proposed building and lake shall be maintained.
5. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

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**Hearing Minutes:**

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

The BOA asked the applicant, Dale & Stacey Roufs (DR & SR), to come forward to add comments or answer questions regarding the request.

*Applicants not present.*

TM - I believe they were planning to have a representative at this meeting.

PB - Let's table this and move it to the last item on the agenda.

CP - I motion to table until the end of the agenda.

PB - Second.

*PC tabled until the end of the agenda.*

At end of agenda.

MS - It is time to go back to the tabled item.

TS - I motion to re-open this request and bring this back to the board.

PB - I second.

Pete DeGroot (PD) - I am representing the applicants. They are asking for a height variance to 19-ft. The tree canopy is higher than that so they will not have to cut away any of the trees. The neighboring buildings are also taller than the proposed building. They are also requesting a property line variance. The 9-ft setback is so they can try to stay away from the septic and mound system. DR wants the building larger so he is able to get his equipment in it. The applicants do not have a business but want space to store their large equipment.

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 - I am very familiar with this site. I think this is a reasonable request. The road is rarely used and there are lots of trees for screening.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

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

TM: I have a correction to condition #1: the distance should be 41-ft from the road right of way.

MS - Are you ok with the updated condition?

PD - Yes.

TM - This is a large lot that is well surrounded by trees. It is a lesser used County road and there are similar height buildings nearby.

Motion made, seconded, and approved.

##### **5. Sunderlin / Variance - Section 16, Forest Township**

Dean & Sam Sunderlin have applied for a 369-sf variance from the 1200-sf size limitation, a variance from the limitation of having only a single detached building up to 1,200-sf, and a 12-ft height variance from the 14-ft height limitation to allow for a new detached storage building. The property is described as: Part of the SE1/4 of the NE1/4 of Section 16, Forest Township, Rice County, Minnesota. The property address is: 4190 Circle Lake Trl, Faribault, MN 55021. PID#: 06.16.1.75.001. The property is Zoned RDS, Recreational Development Shoreland.

**Motion by Bauer, seconded by Wells, to approve the variance request with the following conditions and findings for Dean & Gladys Sunderlin. The property is located in Section 16 of Forest Township.**

<b>RESULT:</b> Approved [Unanimous]
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**CONDITIONS OF APPROVAL - Sunderlin**

1. The variance is to allow for a 1569-sf two-story accessory use building with a 26-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. The proposed building shall be used for personal onsite accessory use only and will not be used for any residential, business or other uses.
4. The onsite septic system shall be shown to be compliant prior to issuance of the building permit.
5. The existing shoreline vegetation shall be maintained.
6. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
7. Failure to comply with the terms of this variance may result in termination of the Variance.

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**Hearing Minutes:**

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

The BOA asked the applicant, Dean & Sam Sunderlin (DS & SS), to come forward to add comments or answer questions regarding the request.

DS - We don't have much more to add. We are just asking to have a storage facility near the house. Our barn is too far from the house to be practical. We are asking for a height variance for extra storage.

SS - I measured our equipment to get the minimum footprint. We would like a loft for extra storage. The roof lines on the outbuilding will match the house. It will look like an old fashioned farm. We were not aware of the 7 conditions. We haven't seen them.

*TM showed the applicants the conditions.*

DS - We are good with the conditions.

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 - I am really familiar with this site. You will never see building from the lake.

PB - It's a large parcel with plenty of vegetation.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;

- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

The findings were read by Bauer with the conditions as stated above and with the following additions by staff.

TM: It is a very large lot and it is very well screened to the roads, lake and neighboring properties. The building height helps reduce the amount of trees that would need to be cut down.

Motion made, seconded, and approved.

**6. Variance/Schroers - Section 4, Wheatland Township**

Nicholas & Kristin Schroers have applied for a 10-ft variance from the 20-ft side property line and a 10-ft variance from the 20-ft rear property line setback requirements to allow for a 40-ft by 80-ft shed to be located 10-ft from the side and rear property lines. The property is described as: Part of the S1/2 of the W1/2 of the NW1/4 of Section 4, Wheatland Township, Rice County, Minnesota. The property address is: 3375 Kanabec Ave, New Prague, MN 56071. PID #: 01.04.2.50.003. The property is Zoned A, Agricultural.

**Motion by Sammon, seconded by Bauer, to approve the Variance with the following conditions and findings for Nicholas & Kristin Schroers. This property is located in Section 4 of Wheatland Township.**

<b>RESULT:</b>	Approved [Unanimous]
<b>AYES:</b>	Streiff, Bauer, Sammon, Peters, Wells

**CONDITIONS OF APPROVAL - Schroers**

1. The variance is to allow for an existing storage building located 10-ft from the north and east property lines to be allowed for business, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. All buildings shall meet code for their proposed use. Proper building and septic permits shall be obtained for the conversion of the building
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.

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**Hearing Minutes:**

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

PB - The shed was just built?

TM - A couple of years ago.

CP - The shed is for private use?

TM - The previous variance had a condition that the shed was to be used for personal only, not for business. They are here to amend that condition.

The BOA asked the applicant, Nicholas & Kristin Schroers (NS & KS), to come forward to add comments or answer questions regarding the request.

NS - We built the shed in 2013 or 2014. At the time, we were not planning on starting a business but plans changed.

CP - Who owns the property to the North?

NS - That property is owned by my father in law. He gave us permission.

MS - The main use of the shed will be storage?

NS - Yes, storage of left over materials from jobs.

TM - They also have a Conditional Use Permit on the PC agenda. When that comes up, the neighboring property will be discussed.

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

Ken Franek - I am the applicant's father-in-law and own the adjoining property. I have no problem with what he's doing. He need a little more room. He started a landscaping business and asked if I would be ok with the variance and I'm completely fine with it.

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

Discussion:

CP - We will get more into the specifics with the Conditional Use Permit.

MS - Are you aware of the 5 conditions?

NS - Yes, I reviewed them this morning.

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:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

The findings were read by Sammon with the conditions as stated above and with the

following additions by staff:

TM: This variance is required because the change in use of the building.

Motion made, seconded, and approved.

### **III. Adjournment**

Hearing no other items before the BOA, a motion was made by Bauer, second by Wells, to adjourn the meeting at 6:56 pm. Motion carried 5-0.

**Respectfully Submitted**

**Board of Adjustment Vice Chair**

**Anna Aguilar**  
**Administrative Coordinator**

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**Charlie Peters**