

Houston County Board of Adjustment
January 25, 2024

Approved on 2/22/2024 by Ken Visger and Wayne Runnigen

The Houston County Board of Adjustment met at 6:00 p.m. on Thursday, January 25, 2024. A summary of the meeting follows.

The meeting was called to order by Environmental Services Director Martin Herrick. Roll call was taken. Members present were Ken Anderson, Wayne Runnigen, and Franklin Hahn. Jim Wieser is the new delegate from the Planning Commission and was present. Ken Visger was absent. Martin Herrick and Amelia Meiners were present for Environmental Services.

Election of Chairperson for 2024 took place. Ken Anderson nominated Franklin Hahn for Chairperson. Wayne Runnigen seconded. There were no other nominations. All were in favor. Motion carried.

Election for Vice Chairperson for 2024 took place. Franklin Hahn nominated Ken Visger for Vice-Chairperson. Wayne Runnigen seconded. There were no other nominations. All were in favor. Motion carried.

Ken Anderson made a motion to approve the minutes of October 26, 2023. Wayne Runnigen seconded. Jim Wieser abstained. All were in favor. Motion carried.

Notice of Public Hearing No. 533 was read for **Scott and Deanna DeWitt**, 15578 County 12, Caledonia, MN 55921.

The petitioners are seeking a variance for a ground mounted solar array within the 50 ft minimum side yard setback in the agriculture protection district of Caledonia Township.

- The following Ordinances are applicable:

- **SECTION 5 - PERMITS**

- **5.2 ZONING PERMITS**

Subdivision 8. Penalty for Beginning without a Zoning Permit. Any person, firm, or corporation and/or both landowners and contractors who shall violate any of the provisions hereof or who shall make any false statements in any document required to be submitted under the provisions hereof shall be subject to a penalty under this ordinance. The contractor, owner, person, firm or corporation that begins an activity or project requiring a zoning permit without first securing said zoning permit shall be subject to triple the normal application fees. This includes all applicable zoning applications required for the project or activity. A denial of said application shall require the owner, firm, corporation and/or contractor to restore the project or activity to its original and/or compliant use, tear down any non-compliant structures, excavate earth to original ground elevations, move structure to compliant location, or construct a compliant septic system as the case may be. After-the-fact zoning permit applications shall be subject to a fee of triple the original application fee. Projects of less than \$1000 in value may be exempt in tripling application fee. This includes any and all permits issued through the zoning office. Any activities in violation of this ordinance shall be subject to the legal remedies available.

- **SECTION 14 - AGRICULTURAL PROTECTION DISTRICT**

- **14.8 SIDE YARD SETBACK STANDARDS**

Subdivision 1. Minimum Side Yard Setback. *There shall be a side yard width of not less than fifty (50) feet on each side of the building.*

- **SECTION 29 - GENERAL PROVISIONS**

29.8 SOLAR ENERGY SYSTEMS AND SOLAR STRUCTURES

Subdivision 1. Permitted by District. *Solar energy systems and solar structures shall be a permitted use in all districts except the flood plain districts provided the system is in compliance with minimum lot requirements and setbacks. Within the flood plain district, solar structures shall be conditional use.*

Subdivision 2. Setback Exemptions. *Solar energy systems and solar structures may be exempted from setback, height, and lot coverage restrictions in all districts by variance.*

- The applicant is requesting a variance for ground mounted solar arrays that are within the 50 ft side yard setback requirement. The setbacks are taken from the anchor posts located under the panels. The maximum deviation from the 50 ft setback is approximately 28 ft and is the recommended variance for the east side yard setback.
- Using a program created by the UMN GIS Department, staff ran a Solar Suitability Report for the location, which indicated the site is good with an 85% rating for solar gain.
- A permit for the solar panels 2023-Z-206474 has been submitted as part of this application. The project was completed in 2021. A permit for an agricultural machinery building 2023-Z- 206494 has also been submitted. This was the basis for the variance and the after the fact permit application.
- The solar array is located approximately 500 ft north of County Highway 12. and the view shed of the array is minimal from the public's access. The parcel is 81.5 acres, and the arrays are fit into the farmyard without using additional tillable acreage.
- The arrays are attached to frames that are anchored by posts which are driven approximately 9 ft into the ground. This provides adequate shear strength to prevent uplift and prevent frost heaving but also is not readily revised.
- The full sunlight areas of the site are somewhat restricted, and the location selected is a best fit.
- Caledonia Township and the ten closest property owners. One verbal comment from Richard Munson was received noting that an additional building had also been constructed at the same time as the solar panels and the amount of time to respond to the notification was not long enough. A storage building was permitted on 5/9/2022 for DeWitt's.

Chairman Hahn asked the applicants if they had anything to add. The applicant stated he was not aware that building permits were required for solar units and discussed the site limitations.

Chairman Hahn asked if anyone else wished to speak. ES Director Herrick discussed some of the unique practical difficulties with solar.

Chairman Hahn asked if there was any public comment. Richard Munson, the neighbor to the east, said he was OK with the project provided it does not infringe on his property rights.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls.

Staff Analysis: The HCZO Section 29.8 subd. 2 states that solar structures are allowed the same variance requests as other structures, and the Comprehensive Land Use Plan encourages alternative energy solutions.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: Difficulties include maximizing solar exposure in a tight farmyard, acquiring adjoining land and locating the system close to its use to minimize system losses. The structure's location and use are reasonable.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The property is restrictive for maximizing solar gain and the site is very developed operationally.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: Based on locational restrictions the variance is the only viable method to bring the location into compliance with the ordinance. The requested variance to the side yard setback requirement is the minimum distance needed.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety, or welfare in the vicinity.

Staff Analysis: Granting the variance will not have a negative impact on the criteria listed above.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the variance to the side yard setback requirement in the agricultural protection district does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Jim Wieser made a motion to accept the findings. Ken Anderson seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

There was discussion on the triple the fee charge and whether it should be included as a condition.

Wayne Runningen made a motion to grant a variance of 28 feet for the east side property line from the side yard setback requirement in Section 14.8 Sub. 2 with the condition that the applicant will pay triple the building permit fee minus what has been paid.

Ken Anderson seconded. A roll call vote was taken. All were in favor. Motion carried.

Jim Wieser made a motion to adjourn the meeting. Ken Anderson seconded. A roll call vote was taken. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on January 26, 2024.

Houston County Board of Adjustment
February 22, 2024

Approved April 25, 2024 by Jim Wieser and Ken Visger.

The Houston County Board of Adjustment met at 5:00 p.m. on Thursday, February 22, 2024. A summary of the meeting follows.

The meeting was called to order by Chairperson Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runningen, Ken Visger and Jim Wieser. Martin Herrick and Amelia Meiners were present for Environmental Services.

Ken Visger made a motion to approve the minutes of January 25, 2024. Wayne Runningen seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 534 was read for **Tony and Susan Drahos**, 3666 Ironwood Court S, Rochester, MN 55902.

The petitioners are seeking two variances to the side yard setback requirements in an Agricultural Protection District. One is for the proposed addition on the east side of the shop and the other corrects an existing non-conformity for an accessory building on the north property line created in a property split. A variance of 18 ft to the east side yard setback is needed for the proposed building addition and a variance of 43 ft is needed to the north side yard setback..

- PID 07.0019.000 is comprised of 6.07 acres adjacent to County Highway 14. The parcel has a shop and a storage building as well as the remnants of a feedlot and a houseboat, which the owner has been removing along with other materials. The parcel has utility easements for power and telephone. The parcel is in the SW ¼ of the NW ¼ and contains a dwelling. The site soil is 580 C2 Blackhammer-Southridge silt Loam which is a prime soil (3e), pictometry demonstrates that it has been an abandoned feedlot for greater than 10 years and has not been tilled in that time frame.
- While the U-shaped driveway has part of its egress to County Highway 14 on the neighbor's property the primary route is within the owner's parcel.
- The parcel's characteristics do not impose any restrictions on the zoning requirements.
- The 1600 square foot building was issued a building permit on July 7, 2014. The proposed addition will be fit to the existing elevations with a door placed at a lower entrance height on the east side as shown on Figure 3. The terrain makes it difficult to add onto the building on the south side.
- While the age of the 700 square foot accessory building is unknown it appears functional in 2013 pictometry images. Also, the north setback for the 700 square foot building cannot be part of the front yard as there is an east side yard separating them. The requirements for permitting accessory structures in the agriculture protection district was adopted in July of 2004.
- The building and the proposed addition will meet all other zoning requirements if the requested variances are granted. Neither structure has water or septic.
- The following ordinance is applicable:
14.8 SIDE YARD SETBACK STANDARDS
Subdivision 1. Minimum Side Yard Setback. *There shall be a side yard width of not less than fifty (50) feet on each side of the building.*
- Jefferson Township and the ten closest property owners were notified. An e-mail was received from Mr. Willian Bell inquiring about the proposed activity.

Chairman Hahn asked the applicants if they had anything to add. Tony Drahos explained the difficulties with the grade at the site.

Chairman Hahn asked if there was public comment. The only comment received was included in the packet. There were no members of the public present at the hearing.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls.

Staff Analysis: The structures are allowed in the Agricultural Protection District. The owner is cleaning up the site and proposes to efficiently fit the addition to the existing terrain as shown above in Figure 3. The rehabilitation of the parcel's structures preserves prime agricultural land which is a goal of the Comprehensive Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: Creating larger setbacks between both structures would involve the acquisition of additional land, which necessitates a willing seller.

Board agreed to the finding by a unanimous vote.

3. The variance requests are due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The property split and the site terrain limit placement of structures which are special conditions not created by the property owner.

Board agreed to the finding by a unanimous vote.

4. The variances cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The Board may find that the variances related to the proposed addition and the existing accessory structure are the only way to feasibly resolve the side yard setback issues, and that the variances are the minimum variance that would alleviate the practical difficulty of limited buildable space and a property split not created by the current owner of the property.

Board agreed to the finding by a unanimous vote.

5. The variances will not alter the essential character of the locality nor substantially impair property values, or the public health, safety, or welfare in the vicinity.

Staff Analysis: Granting the variances will not have a negative impact on the criteria listed above. Additionally, the expanded shop is not anticipated to have any effect on the above criteria. The proposed structure will not have septic connections.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the variances to the side yard setback requirements in the Agricultural Protection District does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Jim Wieser seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made a motion to grant the following variances:

1. Variance of 18 ft to reduce the side yard setback requirements for the proposed addition to the existing shop from the east property line.
2. Variance of 43 ft to reduce side yard setback requirements for an accessory storage building to the north property line.

Ken Visger seconded. A roll call vote was taken. All were in favor. Motion carried.

Chairman Hahn asked for general discussion on sections of the ordinance where members would like to see amendments.

Ken Visger made a motion to adjourn the meeting. Wayne Runningen seconded. A roll call vote was taken. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on February 23, 2024.

Houston County Board of Adjustment
April 25, 2024

Approved on May 23, 2024 by Ken Anderson and Jim Wieser.

The Houston County Board of Adjustment met at 5:30 p.m. on Thursday, April 25, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runningen, Ken Visger and Jim Wieser. Martin Herrick and Amelia Meiners were present for Environmental Services.

James Wieser made a motion to approve the minutes of February 22, 2024. Ken Visger seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 535 was read for **Benjamin and Emily Wieser**, 821 Town Hall Rd La Crescent, MN 55947

The petitioners are seeking a variance to the top of bluff setback for a single-family dwelling. A variance of 12 ft to the top of the bluff setback is needed for the proposed structure in La Crescent Township.

- The proposed location for the single-family dwelling is not located in the prime ag soil, (455B) Festina Silt Loam with a land capability classification of 2e. The prime ag soils are located to the east as shown in Figure 2. The proposed dwelling location is based on the other dwelling (PID 08.0089.001) that is in the same quarter-quarter, shown in Figure 1, being rezoned as residential. The rezone for the dwelling is currently being considered by the planning commission.
- The site has previously had a dwelling and the existing well and other infrastructure is proposed to be reused. A new septic system is being designed for the proposed dwelling.
- The following Ordinances are applicable:

3.6 DEFINITIONS

Bluff. *Outside Shoreland: A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:*

The total vertical rise between the toe and top of the topographic feature is 50 feet or more; and

The grade of the slope from the toe to the top of the topographic feature averages 24 percent or greater.

Top of the Bluff. *The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.*

Bluff Impact Zone. *A bluff and land located within 20 feet from the top of a bluff.*

29.17 BLUFF LAND PROTECTION

Standards within Shoreland Districts may be more restrictive than the following standards. The stricter requirements will prevail within the Shoreland Districts.

Subdivision 1. Prohibited in the Bluff Impact Zone. Structures and accessory facilities must not be placed within bluff impact zones.

Subdivision 2. Setback from the Toe of a Bluff. Structures shall be set back forty (40) feet from the top of a bluff and twenty-five (25) feet from the toe of a bluff.

La Crescent Township and the ten closest property owners were notified. To date one comment has been received in favor of the project and is included in the Appendix.

Chairman Hahn asked the applicants if they had anything to add.
-General discussion about site was had.

Chairman Hahn asked if anyone else wished to speak.

Chairman Hahn asked if there was any public comment.
-No public comment. 1 comment from audience that she is ok with as a neighbor.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls.

Staff Analysis: Placing a dwelling on non-prime ag soils protects prime agricultural land, which is a goal of the Comprehensive Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: Creating larger setbacks is not feasible based on the existing terrain. The site previously had a mobile home and some utilities are in close proximity.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The site's terrain limits placement of structures which is a special condition not created by the property owner.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The Board may find that the variance related to the proposed dwelling are the only way to feasibly resolve the top of bluff setback requirement. And that the variance is the minimum that would alleviate the practical difficulty of limited buildable space which was not created by the current owner of the property.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety, or welfare in the vicinity.

Staff Analysis: Granting the variances will not have a negative impact on the criteria listed above. Additionally, placement of the dwelling is not a new use for the parcel.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the setback variance to the top of the bluff does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Wayne Runningen seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant a setback variance of 12 ft from the 40 ft top of bluff requirement in Section 29.17 Subd 2.

James Wieser seconded. A roll call vote was taken.

BOA Member	Ken Anderson	James Wieser	Franklin Hahn	Wayne Runningen	Ken Visger
Yes Vote	X	X	X	X	X
No Vote					

All were in favor. Motion carried.

Notice of Public Hearing No. 536 was read for **Kevin and Katherine Jumbeck**, 4869 Kassendahl Rd Houston, MN 55943.

The petitioners are seeking a variance to the front yard setback and the requirement for accessory structures to be placed at or behind the principle building in the residential district for the parcel. The proposed addition on the east side of the shop encroaches on the 65 ft setback from the centerline of Kassendahl Road and will extend beyond the dwelling, which is the principal building. A variance of 12 ft to the front yard setback is needed for the proposed building addition. Figure 1. shows the existing conditions and Figure 2. shows the proposed addition in Money Creek Township.

- The 1430 square foot building was issued conditional use and building permits on 2/11/02. The conditional use permit (CUP) allows an accessory building in the residential district. The proposed addition will extend the garage bay to the east by 16 ft as shown in Figure 2. The addition is primarily for the storage of a trailer and is not for automobiles.
- The terrain makes it difficult to expand the building in other directions. The building and the proposed addition will meet all other zoning requirements if the requested variances are granted. The structure does not have water or septic.
- The following Ordinances are applicable:

315.6 FRONT YARD SETBACK STANDARDS

Subdivision 3. Other Public and Private Roads. *There shall be a front yard setback of not less than sixty-five (65) feet from the center line of all public rights-of-way and private roads.*

29.14 ACCESSORY BUILDINGS AND STRUCTURES

Subdivision 1. Accessory Buildings and Structures in Residential Districts.

(2) No accessory building shall be located nearer the front lot line than the principal building on the lot.

- Money Creek Township and the ten closest property owners were notified. To date no comments have been received.
- PID 10.0442.000 is comprised of .53 acres adjacent to Kassendahl Road. The shop and storage building occupy the parcel and the adjacent parcel, PID 10.0441.000 has the associated residence. PID 10.0456.000, located directly across Kassendahl Road is also owned by Jumbeck's. The parcel's characteristics do not impose any restrictions on the zoning requirements.

Chairman Hahn asked the applicants if they had anything to add.

Chairman Hahn asked if anyone else wished to speak.

-Discussion was had as to why applicant unable to put addition on the rear of the building.

Proximity of hillside, increased excavation, and current 4-foot block retaining wall were cited.

Chairman Hahn asked if there was any public comment.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls.

Staff Analysis: On 12/11/02 a CUP was granted for an accessory structure to be placed in the Residential District. Developing existing structures in a planned subdevelopment protects prime agricultural land, which is a goal of the Comprehensive Land Use Plan

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: Creating larger setbacks would involve the acquisition of additional land, which necessitates a willing seller.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The site's terrain limits placement of structures which is a special condition not created by the property owner.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The Board may find that the variances related to the proposed addition are the only way to feasibly resolve the front yard setback and the accessory building being located nearer to the front lot line than the principal building. And that the variances are the minimum that would alleviate the practical difficulty of limited buildable space which was not created by the current owner of the property.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety, or welfare in the vicinity.

Staff Analysis: Granting the variances will not have a negative impact on the criteria listed above. Additionally, the expanded shop is not anticipated to have any effect on the above criteria. The proposed structure will not have septic connections.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the variances to the front yard setback requirement and allowing the accessory structure to be located nearer to the front lot line than the principal building in the Residential District does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Anderson made a motion to accept the findings. Ken Visger seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant variances of:

1. Variance of 12 ft to reduce the front yard setback requirements for the proposed addition to the existing shop from the centerline of Kassendahl Road.
2. Variance of the Section 29.14 Subdivision 1. (2) allowing the accessory structure to be placed closer to the front lot line than the principal building on the lot.

James Wieser seconded. A roll call vote was taken.

BOA Member	James Wieser	Wayne Runningen	Franklin Hahn	Ken Anderson	Ken Visger
Yes Vote	X	X	X	X	X
No Vote					

All were in favor. Motion carried.

Notice of Public Hearing No. 537 was read for **Peter Shufflebotham and Kate Woodward**, 527 5th St. S La Crescent, MN 55947

Comments:

- Peter Shufflebotham explained their project per Franklin Hahn's request.
- James Wieser questioned size of home in relation to limited size of lot.
- Franklin Hahn questioned if their board had the authority to grant building on the township right of way and was answered with no. Martin Herrick and/or Ken Visger to meet with Hokah township.
- Septic questioned. Do not need 2 septic fields as parcel existed prior to 1996 rule. Holding tank currently proposed.
- Franklin Hahn questioning if current trailer and shed removed from parcel would there be room for a home and separate shed for camper.
- Discussion related to closeness to bluff, stability, safety factor, erosion control plan, and using professionals to make determinations pertaining to stated conditions. All public comments were read.
- Amelia Meiners clarified Franklin Hahn's prior question (as above) that the parcel could accommodate a house without variances.

The petitioners are seeking a variance to the toe of bluff as well as front and rear yard setbacks for the parcel. The applicant is proposing to replace the existing trailer with a larger house and garage. Variances to the setbacks are needed on the front and rear yards and for the distance to the toe of the bluff in the northeast corner of the proposed structure. Figure 1. shows the existing conditions and Figure 2. and Figure 3. shows the proposed structure's location and setbacks in plan and aerial views in Hokah Township. Larger copies of Figure 2. And 3. are included in the Appendix.

- A permit for a mobile home was issued on 4/23/1978. The parcel initially contained 46.67 acres and has since been split. The existing dwelling cannot show occupancy for 8 of the last 10 years per Section 14.2 Subdivision 1 (5) (b) to be considered a permittable single-family dwelling. The trailer shows vandalism indicating no upkeep, which has been observed for multiple years and is a criterion for occupancy. Consequently, it will require a conditional use permit (CUP). The site is an open quarter-quarter and can meet the .9 acres minimum buildable lot requirement.
- The elevation changes limit the size of building replacements from the current trailer and variances are needed to account for the larger structure.
- The new owner has been cleaning the site and does not intend to have any other structures on the parcel besides the dwelling and attached garage.
- The site will require a new septic evaluation and a preliminary review has indicated that a modified mound system will be required. The site is not required to have multiple drainfield location as it was developed prior to 1/23/1996.
- Staff have discussed the very steep slope near the northeast corner of the proposed structure with the applicant and will require the design of a retaining wall or other measures by a Professional Geotechnical Engineer prior to considering a CUP application to be complete. There is evidence of a previous slide that has revegetated located to the northeast of the proposed structure.
- The following Ordinances are applicable:

3.6 DEFINITIONS

Bluff. *Outside Shoreland: A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:*

The total vertical rise between the toe and top of the topographic feature is 50 feet or more; and

The grade of the slope from the toe to the top of the topographic feature averages 24 percent or greater.

Toe of the Bluff. *The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.*

Buildable Lot. *A lot of record, or other lot, tract, or parcel legally recorded with the County Recorder that meets the requirements of this Ordinance. Buildings or structures shall not be permitted on land which has a slope of twenty-four (24) percent or greater. The buildable lot shall have the minimum lot area required for the district in which it is located, and which not more than ten (10) percent of the required lot area is collectively comprised of:*

- Area of a slope of twenty-four (24) percent or greater.*
- A shoreland impact zone as defined by this Ordinance.*
- Protected waters as defined in this Ordinance.*
- Wetlands as classified in the U.S. Fish and Wildlife Service. Circular No. 39.*

All access roads that service a new building site or dwelling shall be constructed with a final slope of less than 12%. All finished driveways shall be constructed in conformity with Section 29.19

14.2 PERMITTED USES

Subdivision 1. Permitted Uses. *In the Agricultural Protection District no building structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following permitted uses:*

(5) Single family dwellings that were built on 40 or more contiguous acres, but are now located on less than 40 acres due to a property split. Single family dwellings that were built on 40 or more contiguous acres, but are now located on less than 40 acres due to a property split can continue as a permitted use if they meet the following criteria:

(b) The dwelling was inhabited in 8 of the last 10 years.

14.3 CONDITIONAL USES

Subdivision 1. Conditional Uses. *In the Agricultural Protection District, the following uses may be allowed only after obtaining a Conditional Use Permit in accordance with the provision of this Ordinance.*

(10) Dwellings. Single-family non-farm dwellings subject to the following:

(a) No more than one (1) dwelling per quarter-quarter section.

(b) Non-farm dwellings built after the adoption of this Ordinance shall be setback at least one-fourth, (1/4), mile from all feedlots, except as otherwise provided in this Ordinance.

(c) Non-farm dwelling units shall not be permitted on land which is of soil classifications of Class I-III soils rated in the Soil Survey - Houston County by the U. S. D. A. Natural Resource Conservation Service, except in cases where the land has not been used for the production of field crops or enrolled in a government program whereby compensation is received in exchange for the removal of an area from production, for a period of ten years or more. 75

Houston County Board of Adjustment
June 27, 2024

Approved on July 25, 2024 by Jim Wieser and Ken Visger

The Houston County Board of Adjustment met at 5:00 p.m. on Thursday, June 27, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Franklin Hahn, Wayne Runningen, Ken Visger and Jim Wieser. Ken Anderson was absent. Martin Herrick and Amelia Meiners were present for Environmental Services.

Ken Visger made a motion to approve the minutes of May 23, 2024. Jim Wieser seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 540 was read for **Ryan and Sarah Herman**, 13060 Heartland Drive, Caledonia, MN 55921.

The petitioners are seeking a variance to reduce the 50 ft side yard setback from the east property line. (14.8 Subd. 1). A variance of 17 ft is needed for the existing accessory (granary) structure adjacent to the east property line as shown in Figure 2. The variance is required for issuing a building permit for a 36 ft X 60 ft accessory building on the parcel in Wilmington Township.

- PID 05.007.001 is comprised of 7.07 acres connecting to Heartland Drive and Mn Highway 76.
- The proposed accessory agricultural building will meet all other zoning requirements if the variance is granted. The granary was constructed prior to the August 30, 1967, ordinance but a March 29, 2005 property split created a non-conformity by reducing the side yard setback to less than the required 50 ft.
- The following ordinance is applicable for the variance application:
14.8 SIDE YARD SETBACK STANDARDS
Subdivision 1. Minimum Side Yard Setback. *There shall be a side yard width of not less than fifty (50) feet on each side of the building.*
- Except for the granary's east side yard setback, the parcel's characteristics do not impose any restrictions on the proposed accessory building's zoning requirements.
- Wilmington Township and the ten closest property owners were notified. To date no comments have been received.

Chairman Hahn asked the applicants if they had anything to add. Ryan Herman was present to answer questions.

Chairman Hahn asked if anyone else wished to speak.

Chairman Hahn asked if there was any public comment. There were no public comments for this proposal.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls.

Staff Analysis: The accessory structure (granary) to a non-farm single family dwelling is a permissible activity in the Ag Protection District. Permitted activities meet the intent of the Comprehensive Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: Creating a larger setback between the granary and the agricultural field would require purchasing additional farm field that is not practical and counters the agricultural protection goals of the comprehensive land use plan. Additionally, relocating the building is not practical.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The property was purchased as a split parcel.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The Board may find that the variance related to the granary is the only way to feasibly resolve the setback issue, and that the variance to the side yard setback is the minimum variance that would alleviate the non-compliance.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety, or welfare in the vicinity.

Staff Analysis: Granting the variance will not have a negative impact on the criteria listed above.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the variance to the side yard setback requirement in the Agricultural Protection District does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Jim Wieser made a motion to accept the findings. Ken Visger seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant a variance of 17 ft to reduce side yard setback requirement for an accessory structure.

Wayne Runningen seconded. A roll call vote was taken. All were in favor. Motion carried.

Wayne Runningen made a motion to adjourn the meeting. Jim Wieser seconded. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on June 28, 2024.

Houston County Board of Adjustment
July 25, 2024

Approved on September 26, 2024 by Jim Wieser and Ken Visger

The Houston County Board of Adjustment met at 6:00 p.m. on Thursday, July 25, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runnigen, Ken Visger, and Jim Wieser. Martin Herrick and Amelia Meiners were present for Environmental Services.

Jim Wieser made a motion to approve the minutes of June 27, 2024. Ken Visger seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 541 was read for **Nathan and Jennifer Wurm**, 12759 Phillip Drive, Caledonia, MN 55921.

Franklin Hahn stated the petitioners are seeking the following variance to construct an accessory building in a residential district. The hearing prior for a conditional use was granted.

1. Variance to allow an existing accessory building to exceed the height of the principal building in accordance with Section 29.14 Subd. 1. (3) in Caledonia Township.

- The Houston County Zoning Ordinance provides the following applicable requirements for the proposed accessory use in the residential district:
15.4 ACCESSORY USES Subdivision 1. Incidental to Principal Use. Structures and uses customarily incidental to any of the permitted or conditional uses listed above and when located on the same property.

15.12 GENERAL STANDARDS Additional requirements for parking, signs, sewage systems, and are set forth in Section 29 and 30.

29.14 ACCESSORY BUILDINGS AND STRUCTURES

Subdivision 1. Accessory Buildings and Structures in Residential Districts

(3) No accessory building shall exceed the height of the principal building.

- The proposed accessory building is a gymnasium with an elevated ceiling for a basketball court. While the proposed structure fits into the site's contours as much as possible its height will exceed the principal building elevation by approximately 8 ft. The local topography varies with numerous two-story dwellings that have walk out basements, so the viewshed is not extreme for the area. The building's exterior materials will blend in with the principal building and any exterior lighting will be minimized for access purposes only.
- The location is in the Green Acres Sub Development of Caledonia Township. The proposed location for the accessory structure on Phillip Drive. Note that Houston County cannot enforce the covenants for the Green Acres Subdivision.
- The property consists of 1.58 acres in the Green Acres residential development. No road modifications will be required. The proposed septic system will be a holding tank dedicated to this building that will require an approved design and a permit. There will be no commercial activity related to this and no external signs will be installed. The proposed dimensions are 50 ft x

104 ft with part of the building approximately 6 ft below grade. The estimated height will be 8 feet above the height of the house for a total height of approximately 24 feet.

- Caledonia Township and the ten closest property owners were notified. To date the only comments have been from the Township.

Chairman Hahn asked the applicants if they had anything to add. Brent Augedahl and Nathan Wurm were present to answer questions.

Brent Augedahl gave an overview of the plans for the gym. It will be for the neighborhood kids only, no fees will be charged, parking will not be an issue.

Martin Herrick provided information on the conditional use that was granted at the meeting prior. The permit was granted for an accessory structure only, it could not be used for a future home. Brent said if the home were sold in the future, it would be sold along with the accessory building.

There was general discussion on the prior conditional use hearing.

Chairman Hahn asked if anyone else wished to speak.

Chairman Hahn asked if there was any public comment. There were no public comments for this proposal.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: The accessory building is allowed in the residential district and improving the functional use is an efficient land use that minimizes new development and is a goal of the Comprehensive Land Use Plan.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: This type of accessory facility requires a high ceiling height which is higher than the principal existing structure.

Board agreed to the finding by a unanimous vote.

3. The variance requests are due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The lot does not have enough vertical relief to allow the accessory structure to be at or below the elevation of the principal structure.

Board agreed to the finding by a unanimous vote.

4. The variances cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The Board may find that the variance related to the proposed accessory structure is the only way to feasibly resolve the height restriction, and that the variance is the minimum variance that would alleviate the practical difficulty of limited height restriction for an accessory structure in the residential district.

Board agreed to the finding by a unanimous vote.

5. The variances will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: Granting the variance will not have a negative impact on the criteria listed above. Additionally, the accessory structure is not anticipated to have any effect on the above criteria. The septic addition will be an approved design and permitted.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by Mn. State Law.

Staff Analysis: The granting of the variances for the height in the in the residential district does not conflict with any restricted uses. There is no mapped floodplain on the parcel. There are no known state standards applicable to the request.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Wayne Runnigen seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant a variance of 8 ft to allow an accessory building to exceed the height of the principal building in accordance with Section 29.14 Subdivision 1, Subsection 3, Accessory Buildings and Structures in Residential Districts.

Jim Wieser seconded. A roll call vote was taken. All were in favor. Motion carried.

Ken Visger made a motion to adjourn the meeting. Jim Wieser seconded. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on July 26, 2024.

Houston County Board of Adjustment
September 26, 2024

Approved on October 24, 2024 by Jim Wieser and Ken Visger

The Houston County Board of Adjustment met at 5:00 p.m. on Thursday, September 26, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runnigen, Ken Visger, and Jim Wieser. Amelia Meiners was present for Environmental Services.

Jim Wieser made a motion to approve the minutes of July 25, 2024. Ken Visger seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 542 was read for **Michael and Becky Schansberg**, 15264 County 12, Caledonia, MN 55921.

The petitioners are seeking the following variances: 1) Variance to reduce side yard setback requirements to relocate an existing accessory structure (14.8 Subd. 1) 2) Variance to reduce side yard setback requirements for an existing accessory structure (14.8 Subd. 1) 3) Variance to reduce rear yard setback requirements for a proposed accessory Structure (14.9 Subd. 1) in Caledonia Township.

- This is a five and a half acre property that was split from the tillable acreage back in 1974, just after zoning went into effect. No permits have been issued to this site meaning that they were either constructed before zoning or prior to agricultural buildings requiring building permits. The 50-foot setback requirement was in place for buildings at that point in time, but it is common that property splits were not done in such a manner that recognized that requirement and each one of these requests has a little different circumstance. Currently, there is an older dwelling and three larger outbuildings on the property.
- The first request is for an existing shop building along the west property line. This building was constructed in the mid-1980s and currently sits approximately 23-feet off the property line. The applicant would like to pour an eight foot backwall parallel to the property line and move the existing structure back and then add on additional length to the front and lean-tos onto both sides of the building. There are some drainage issues with the current layout and this would resolve those issues. The proposal is to be approximately eight-feet off the property line.
- The second request is for an old dairy barn constructed prior to zoning, but the property split resulted in it being 30-foot off the property line. There are no plans to improve or remove this building at this time, but this request will resolve the setback issue to allow future permitting.
- The third request is for a proposed structure. At the time this application was made, the applicant believed the north property line was depicted incorrectly on Beacon and the fence line was the true north boundary. After further investigation a survey was located for this parcel and it does appear that Beacon is likely accurate for this site. When the applicants purchased the property there was an old hog barn approximately 29-feet off the north property line (see Fig. 3 below) that has since been removed. They do not know exactly how large of a structure they intend to build yet but would like the opportunity to replace and potentially use the existing slab. They are asking to encroach to ten feet off the north property line.
- The applicants also noted that they intend to replace the house in the near future which would be in proximity of the existing house and a new septic system would be required. This request will not require variances but realize some area is set aside to accommodate that structure.

- Looking at aerial imagery of this location is deceiving. There is a fair amount of grade change, especially along the east side of the parcel that limits development to within the existing developed area. This parcel receives run on water from adjacent parcels and the eastern part of the parcel is a natural drainage way that leads to a mapped intermittent stream approximately 425 feet north of this property boundary that eventually flows to East Beaver Creek.
- There are no bluff, floodplain, wetland or shoreland concerns. The slope at the site is acceptable and soils are not applicable to these requests. There is an existing driveway access servicing this location and there are no plans for modification.
- Caledonia Township and the ten closest property owners were notified. No comments were received.

Michael and Becky Schansberg were present to answer questions. Chairman Hahn asked the applicants if they had anything to add and they explained the project in more detail.

Chairman Hahn asked if there was any public comment. Richard Munson, the neighbor, was present and he stated he had no issues with this request.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: The Ordinance allows for reduced setbacks provided there are practical difficulties in meeting standards and the Land Use Plan encourages development to conform to the natural limitations presented by topography and soils. Slopes are a challenge at this site.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The applicant states that buildings cannot be relocated to meet setback requirements because it would interfere with existing driveway infrastructure that cannot be reduced in size and changing locations may impact existing drainage ways.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The parcel split that created a couple of the issues was done in 1974 under previous ownership. However, the applicant is asking to encroach beyond the existing setback to allow them to mitigate some drainage issues and expand the existing structure. The proposed building (third request) would utilize an existing flat area on the property whereas other locations likely require a large amount of excavation.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The applicant states that there have been no issues with the status quo and unless structures are removed a variance is the only reasonable method for resolution. The site is deceiving, and slopes present a challenge and without removing the old dairy barn it likely would be hard to locate a sizable cold storage building that meets setbacks along the north property line.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: The current property lines have been in place for fifty years with no issue. This will remain a residential property in the agricultural district which commonly have multiple outbuildings and therefore will not alter the essential character of the locality.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: These requests are all area variances and will not result in allowing a use not allowed by the Zoning Ordinance. This parcel does not contain floodplain.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Anderson made a motion to accept the findings. Ken Visger seconded. Roll call vote was taken. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made a motion to grant a variance of 42' to relocate and expand an accessory building off the west property line; a variance of 20' off the west property line for the old dairy barn and a variance of 40' from the north property line for a proposed accessory building.

Wayne Runningen seconded. A roll call vote was taken. All were in favor. Motion carried.

Ken Visger made a motion to adjourn the meeting. Ken Anderson seconded. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on September 27, 2024.

Houston County Board of Adjustment
October 24, 2024

Approved on November 21, 2024 by Ken Anderson and Ken Visger

The Houston County Board of Adjustment met at 5:00 p.m. on Thursday, October 24, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runnigen, Ken Visger, and Jim Wieser. Amelia Meiners was present for Environmental Services.

Jim Wieser made a motion to approve the minutes of September 26, 2024. Ken Visger seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 543 was read for **Gregory and Anne Yakle**, 12402 County 10, Caledonia, MN 55921.

The petitioners are seeking the following variance: 1) Variance to reduce rear yard setback requirements to replace an accessory structure (14.9 Subd. 1) in Caledonia Township.

- The parcel is one of three farm dwellings that was the result of a split in 1979. The parent parcel (03.0106.000) which includes the “chimney” that encroaches into this parcel contains all of the tillable acreage and included outbuildings and a mobile home. The first split (03.0106.001) contains a couple of larger ag buildings and the second (03.0106.002) and third splits contain dwellings (01.0106.003) and small accessory structures. The second split received a variance for a project due to limited parcel area similar to this site. No permits have been issued to this parcel since its creation.
- There is an existing structure at this location and maintenance would not require a permit or trigger the need for a variance. An alternative option would be to move the structure north to meet the property line setback, but the landowner would like to utilize the existing concrete pad and plans to increase the size of the structure. With the limited area in this parcel, staff feel it may be better to utilize this existing space and retain area for a replacement septic system. In addition, if the landowner is ever able to purchase the “chimney” then the structure would be compliant.
- While the existing structure is located right on the property line, the Board of Adjustment may acknowledge that the neighboring property and dilapidated buildings are more of an inconvenience and safety and welfare concern for the petitioners than their project would be on the neighbors since they physically reside on this parcel.
- The existing septic system location is unknown.
- There are no bluff, slope, floodplain, shoreland or wetland concerns at this location. An accessory structure is an allowable use and characteristic of rural residential properties in the agricultural district.
- Caledonia Township and the ten closest property owners were notified. No comments were received.

Greg and Anne Yakle were present to answer questions. Chairman Hahn asked the applicants if they had anything to add and they explained the project in more detail.

Chairman Hahn asked if there was any public comment.

Bob Ellenz, property owner to the south, asked if they would need to access his property in order to work on their project. The landowner stated he is not sure where the property line is, but doesn't think they should be granted such an extreme variance because if people are on his property and get hurt then he would be liable.

The BOA discussed with the applicant modifying the variance request to 15 feet. They were agreeable.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: The Ordinance allows for reduced setbacks provided there are practical difficulties in meeting standards and allows accessory structures incidental to the principal use.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The proposed use is one that has been in place since a property split took place back in 1979 and is a reasonable use for rural residential properties.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The property split that created this issue was done when the concept of zoning was fairly new and prior to the current landowner's ownership of the parcel. It is also difficult to

split a single farm property with multiple interests in a manner that is compliant with the Zoning Ordinance.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The landowner would need to purchase the “chimney” area of the adjacent parcel in order to create a compliant lot for themselves, but that requires a willing neighbor. Secondly, the proposed building could be relocated to a compliant location but would end up being centrally located on the lot and may limit future placement of a septic system. This may be considered an extreme request, but it is a unique property split.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: Ultimately, this project will not alter the parcel much whatsoever. The applicant intends to replace and slightly expand the existing accessory structure.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: There is no floodplain in the vicinity of this request and it is an area variance.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Ken Anderson seconded. Roll call vote was taken. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made a motion to grant a variance of 35 feet to allow for the replacement and expansion of an existing accessory structure.

Ken Visger seconded. A roll call vote was taken. All were in favor. Motion carried.

Notice of Public Hearing No. 544 was read for **Chad and Tracy Harms**, 12731 Phillip Drive, Caledonia, MN 55921.

The petitioners are seeking the following variance: 1) Variance to reduce rear yard setback requirements for an addition onto an existing dwelling (15.8 Subd. 1) in Caledonia Township.

- This lot is located in the Green Acres Third Addition just south of Caledonia city limits. The dwelling was permitted in May of 2004 and required a 50-foot property line setback. The application indicates the residence would be 78 feet from the south property line, but its currently about 38 feet. Beacon correctly displays this parcel of the platted subdivision and likely is an accurate representation which is not always the case. It's hard to say what created this issue, but with aerial imagery now we have the ability to understand boundaries better than in the past. After viewing the property and the challenges of the grade, it may be the case too that during construction the dwelling was shifted uphill where it's likely positioned better on the lot. Regardless, because the new addition will encroach slightly on the rear yard setback, staff required a variance to correct the discrepancy.
- This location has a significant change in grade between the road and back of the parcel and the proposed addition is in the best location. Any addition off the rear of the dwelling would be a significant encroachment on the rear property line and that may be the only location for a replacement septic system as well. The current septic system is located between the dwelling and road.
- There are no floodplain, shoreland or wetland concerns with the site. The closest intermittent stream is approximately 400-feet north of this proposal and is a tributary to Crooked Creek.
- The slope at the site is acceptable and soils are not applicable to this request. There is an existing driveway access servicing this location and there are no plans for modification.
- Caledonia Township and the ten closest property owners were notified. No comments were received.

Chad Harms was present to answer questions. Chairman Hahn asked the applicant if he had anything to add and he explained the project in more detail.

Chairman Hahn asked if there was any public comment. No members of the public were present.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: The Ordinance allows for reduced setbacks provided there are practical difficulties in meeting standards and the Land Use Plan encourages the rehabilitation of existing older homes.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The dwelling is existing and cannot be moved. Therefore, a variance is the only resolution for them to move forward with their project.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The applicant was not the property owner at the time the dwelling was constructed.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The dwelling is existing and cannot be moved. In fact, the petitioner is not significantly increasing the existing encroachment. The angle at which the house sits on the property is what creates the issue, but since the existing structure is already encroaching, staff is requiring a variance to correct the discrepancy.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: The variance will not dramatically alter the existing conditions at this location. The addition will meet the side property line setback which the BOA may view as having a greater impact on neighbors than the rear. This is currently one of the smaller dwellings in this subdivision so an addition will not create a “look” outside the character of this community.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: There is no floodplain on this parcel and it is an area variance.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Jim Wieser made a motion to accept the findings. Wayne Runningen seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant a variance of 15-foot to meet the rear yard setback for a proposed dwelling addition.

Wayne Runningen seconded. A roll call vote was taken. All were in favor. Motion carried.

Jim Wieser made a motion to adjourn the meeting. Ken Visger seconded. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on October 25, 2024.

Houston County Board of Adjustment
November 21, 2024

Approved April 24, 2025 by Wayne Runnigen and Ken Anderson

The Houston County Board of Adjustment met at 5:00 p.m. on Thursday, November 21, 2024. A summary of the meeting follows.

The meeting was called to order by Chairman Franklin Hahn. Roll call was taken. Members present were Ken Anderson, Franklin Hahn, Wayne Runnigen, Ken Visger, and Jim Wieser. Amelia Meiners was present for Environmental Services.

Ken Anderson made a motion to approve the minutes of October 24, 2024. Ken Visger seconded. All were in favor. Motion carried.

Notice of Public Hearing No. 545 was read for **Shaun Goodwin and Shelly Helland**, 1162 County 6, La Crescent, MN 55947.

The petitioners are seeking the following variances: 1) Variance to reduce side yard setback requirements for replacement of a garage (15.7 Subd. 1). 2) Variance to reduce the front yard setback (15.6 Subd. 2). 3) Variance to allow an accessory structure nearer the front lot line than the principal building (29.14 Subd. 1(2)) in La Crescent Township.

- The petitioner is requesting variances from the side yard setback requirement, front yard setback requirement and requirement to allow accessory structures nearer to front lot lines than the principal building in order to replace an accessory structure in the residential district.
- This parcel is in La Crescent Township near the intersection of County 6 and 25. The parcel report notes both the dwelling and existing garage as constructed in 1959 and the La Crescent Township Zoning Ordinance went into effect in 1974. This area is not part of a platted subdivision, but is zoned residential. The existing building is considered legal, non-conforming and typically those uses can continue, but once they need to be replaced the structure should meet all current standards.
- Much of this area has been annexed into the City so it is fair to presume at some point during the life of this building that this property may be annexed. In the Low Density Residential District from the City of La Crescent Ordinance, the setback requirement is 10-feet to the side lot line and 25-35 feet to the front (minimum equal or greater to principal structure). Aside from the accessory structure to dwelling relationship it seems this request will not allow standards different than those required by the City.
- Section 15.6 Subd. 4 (3) of the Houston County Zoning Ordinance allows an averaging of setbacks in existing developed areas based on structures within 300 feet of the proposed structure. There are two other structures and the existing within 300 feet of the proposed building and the average setback is 67 feet. Note though that the two other structures do not meet the requirement that they be at least 20 feet beyond right of way. Applying this logic the Board of Adjustment may feel that the front yard setback variance is not required and if other variances were not being sought staff likely would not have required only a front yard setback variance.

15.6 FRONT YARD SETBACK STANDARDS

Subdivision 2. County Highways. There shall be a front yard setback of not less than one hundred (100) feet from the center line of all County roads.

Subdivision 4. Exceptions.

(1) Right-of-Way Encroachment Prohibited. If the setback standards cited in Subdivisions 1-3 above would result in a structural encroachment into the road right-of-way, then the setback distance shall be increased to at least twenty (20) feet beyond the right-of-way line.

(3) Existing Developed Areas. Within existing developed areas, the front yard setback requirements may be adjusted to coincide with average setbacks occurring on either side of the proposed building within three hundred (300) feet except that no building shall be located less than twenty (20) feet from right-of-way line.

29.14 ACCESSORY BUILDINGS AND STRUCTURES

Subdivision 1. Accessory Buildings and Structures in Residential Districts.

(1) No accessory buildings may be located within five (5) feet of the side lot line or within eight (8) feet of the rear lot line.

(2) No accessory building shall be located nearer the front lot line than the principal building on the lot.

(3) No accessory building shall exceed the height of the principal building.

(4) Accessory buildings, 200 square feet in area or less that are portable and not attached to any foundation, and which meet all other requirements of this ordinance, are permitted uses and do not require a building permit. All other accessory structures in the Residential District, except as provided in paragraph 5 below shall require a conditional use permit.

(5) No private garage used or intended for the storage of passenger automobiles shall exceed fifteen hundred square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet. Setback standards shall meet the requirements as set forth in section 15 of this ordinance.

(6) When a private garage is oriented so as to face onto a public street it shall not be less than twenty (20) feet from the right-of-way line.

- The slopes at this location are acceptable, however, there is almost a 25-foot change in grade from County 6 to the tree line at the rear of this lot. There are no floodplain, shoreland or wetland concerns with this site. The closest intermittent stream is over a half mile in the southwesterly direction.
- The well is directly north of the dwelling and the septic is located west of the driveway. There is an existing driveway serving this location and there are no plans for modification.
- It does appear that the accessory structure could be located east or north of the dwelling where it likely would not require any variances. However, the topography does create a challenge. Pushing the structure back in line with or behind the house would require removal of a significant amount of fill to keep it at a similar elevation to the dwelling and then would require installation of a new section of driveway. Those changes to natural contours would need to be done to minimize stormwater runoff.
- There is no record of issues with the existing building location and this proposal will move it further away from the property line.
- La Crescent Township and the ten closest property owners were notified. No comments were received.

Shaun Goodwin and Clint Goodwin were present to answer questions. Chairman Hahn asked the applicants if they had anything to add and they explained the project in more detail. The project is necessary because the existing garage is failing and they plan to leave the existing pad which should direct water flow so it doesn't impact the neighbors.

Chairman Hahn asked if there was any public comment. There was none.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: The Ordinance allows for reduced setbacks provided there are practical difficulties in meeting standards and the Land Use Plan encourages development to conform to the natural limitations presented by topography and soils, so as to create the least potential for soil erosion.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The proposed use of a garage is reasonable and relocating the building in the existing location may be the best option since it limits alteration of the natural topography.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The existing structure and asphalt driveway was constructed by a previous landowner prior to zoning regulations. This request is asking to utilize that existing infrastructure, and this proposed location would likely have a lesser impact on the natural environment than if the applicant built in a location that met all standards.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The building can be located east or north of the dwelling and meet all setback requirements, but would require a substantial amount of disturbance to the hillside. The Board of Adjustment may consider that an unreasonable option.

Board agreed to the finding by a unanimous vote.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: The variance will allow replacement of a legal, non-conforming structure that has been present for over sixty years and the properties to both the east and west have similar site layouts so there will be no alteration to the character of the neighborhood.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: This is not a use variance and is not allowing a prohibited use. There is no floodplain in the vicinity.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Jim Wieser made a motion to accept the findings. Ken Anderson seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made a motion to grant a variance of 5-feet to meet the required 15-foot side yard setback, a variance of 20-feet to meet the required 100-foot front yard setback, and a variance to allow an accessory building nearer the front lot line than the principal building.

Wayne Runnigen seconded. A roll call vote was taken. All were in favor. Motion carried.

Notice of Public Hearing No. 546 was read for **John and Karyl Diersen**, 8439 County 3, Caledonia, MN 55921.

The petitioners are seeking the following variance: 1) Variance to reduce setback requirements for a proposed dwelling from an existing feedlot (Section 33.16 Subdivision 6). in Mayville Township.

- The applicants are seeking a variance of 230 feet for a proposed dwelling to meet the required 1,320-foot setback from a registered feedlot in Mayville Township.
- The petitioners currently operate a 363 animal unit dairy farm on this parcel and would like to construct a new dwelling in the far northwest corner which will allow the next generation to move into the main farm dwelling. A farm dwelling is a permitted use in the agricultural protection district and allows the applicants to build on prime agricultural soils. This parcel encompasses

four quarter-quarters and has an existing field access road to CSAH 3 in this location. The Highway Department reviewed the proposal and to staff's knowledge no permit is required for the change of use.

- The homeowners could shift the dwelling to the east to get outside of the feedlot setback, but the proposed location will minimize the tillable acreage removed from production.
- There are two registered feedlots in close proximity, but one is approximately 1,400 feet away while the other is approximately 1,100 feet to the west. In addition, to the south there are two feedlots at 2,600 and 3,200 feet away and to the east there is a feedlot approximately 3,450 feet away. The location of these feedlots limits much of the available ground adjacent to public roads in other open quarter-quarters.

33.16 GENERAL FEEDLOT LOCATION AND SETBACK STANDARDS

The setback requirements are to be measured from the outermost boundaries of the feedlot structure or fence, to the existing dwelling. In the case of residential lots of record, public parks and incorporated city limits, the measurement will be from the feedlot to the closest property line.

Subdivision 1. Feedlot Advisory Committee Review. *The Feedlot Advisory Committee shall conduct an on-site review of all variance applications relating to feedlots. Upon completion of the review, the committee shall prepare a report and recommendation for the Board of Adjustment's consideration.*

Subdivision 6. Residential Dwelling Setback from Feedlot. *New dwellings and the expansion of existing dwellings, other than the feedlot owner's or family member's dwelling, less than one-fourth ¼ mile from a registered feedlot shall be reviewed by the feedlot advisory committee and shall require the granting of a site specific variance from the board of adjustment.*

- There are no bluff, floodplain, wetland or shoreland concerns with the dwelling location. The driveway and building site will meet slope standards and there is no dwelling within the NW NE quarter-quarter. The feedlot for which the variance is requested will be west of the proposed dwelling and based on the local windrose plot, the proposed location may be optimal for reduced odor.
- The feedlot in question belongs to Mark and Sandy Jennings. It's a unique situation in that the site is not currently stocked. They purchased the property back in 2018 and since that time demolished the existing buildings and constructed a new building. Permit #4897 was issued in June of 2020 to construct a pole building and the application identifies that it will be used for animal confinement. Staff recently confirmed that the landowner still intends to use the site for animal confinement.
- Mayville Township and the ten closest property owners were notified. No comments were received.

John Diersen was present to answer questions. Chairman Hahn asked the applicant if he had anything to add. John said they currently operate a dairy farm and are looking to build a new home on the farm so they are available to help after they transition the farm to their sons.

Chairman Hahn asked if there was any public comment. No members of the public were present.

A Feedlot Advisory Committee report was not available for the board packet, but ES Director Meiners summarized the comments from the Feedlot Advisory Committee. Comments were provided ahead of time by Commissioner Myhre, Cindy Wright, and Wayne Feldmeier. Cindy Wright and Wayne Feldmeier felt that this ultimately was transitioning the next generation to the farm and they felt that was valuable. Commissioner Myhre was present at the meeting and concurred with those comments. Larry Gaustad was also present, but did not provide a comment.

Jim Wieser asked why they don't build closer to the existing buildings. John Diersen responded that this location has easy access from the county road and there was a good location for a septic system. Moving the structure to the east would put it in the drainage way.

Chairman Hahn asked that the Findings be read being there were no further comments.

12.5 CRITERIA FOR GRANTING VARIANCES

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.

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: This location meets the density control system put in place by the Zoning Ordinance and the Comprehensive Plan encourages development to take place in a manner that minimizes impact to prime agricultural land.

Board agreed to the finding by a unanimous vote.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The applicants own over 120 acres in this location and a farm dwelling is a permitted use. One of the quarter quarters is occupied and there are feedlots in almost all directions that may impact potential building sites. This is an operating farm and while building within the setback is not optimal, it will minimize impacts to tillable acreage. In addition, shifting the dwelling to the east enough to meet the setback puts the dwelling in a low spot that will require more alteration to the land than necessary at the proposed location.

Board agreed to the finding by a unanimous vote.

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: This is an area of the County used heavily for agriculture and as a result there are a number of registered feedlots to contend with. The applicants are producers themselves and are looking for an opportunity to downsize their dwelling, but still reside on the farm.

Board agreed to the finding by a unanimous vote.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: The landowners can move the structure to the east to meet the setback, but the Board of Adjustment may see the value of minimizing disturbance to prime tillable acreage as a higher priority.

There was general discussion over whether to change the language on this finding. The group decided to leave the language, but asked to vote via roll call so they could provide an explanation.

Jim Wieser – Yes.

Wayne Runningen – Yes, it is a better spot.

Franklin Hahn – Yes but would prefer to remove the phrase “the Board of Adjustment may see the value” from the finding.

Ken Anderson – Yes, best location for construction of the house.

Ken Visger – Yes.

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: This proposal will allow a farm dwelling which is commonly found in this location.

Board agreed to the finding by a unanimous vote.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: This is an area variance and it is not in the vicinity of floodplain.

Board agreed to the finding by a unanimous vote.

Chairman Hahn asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Wayne Runningen seconded. All were in favor. Motion carried.

Chairman Hahn asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made a motion to grant a variance of 230 feet for a proposed dwelling within the required 1,320 feet setback for a registered feedlot.

Ken Visger seconded. A roll call vote was taken. All were in favor. Motion carried.

Jim Wieser made a motion to adjourn the meeting. Wayne Runningen seconded. All were in favor. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on November 22, 2024.