The Wright County Board of Adjustment met August 7, 2020, in the County Commissioner’s Board Room at the Wright County Government Center, Buffalo, Minnesota. Dan Mol, Vice-Chair, called the meeting to order at 8:30 a.m. with Paul Aarestad and Dan Vick present in person, Charlotte Quiggle, participating remotely. Absent was John Jones. Barry Rhineberger, Planner, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, provided legal counsel remotely.

Rhineberger petitioned two items to be added to the end of the agenda, one matter for discussion is on meeting dates; and, second is a closed session with Attorney Scott Anderson. Kryzer stated this is in relation to a Court matter Kiefer vs. Wright County & Diers Corp.

**ACTION ON MINUTES FOR THE JULY 17, 2020 MEETING.**

On a motion by Vick, seconded by Aarestad, all voted to approve the minutes for the July 17, 2020 meeting as printed.

1. **BALKE PROPERTIES, LLC** – Cont. from 7/17/20

LOCATION: 4998 Ferman Avenue SW – Part of SW ¼, Section 29, Township 119, Range 26, Wright County, Minnesota. (Marysville Twp.) Tax #211-000-293301

Requests a variance of Section 155.026, 155.048(B)(9) & (G)(4)(C)(3), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow the division of an existing 150 acre farm into four parcels, each to have one “entitlement” as follows: Proposed is 20 acres with the existing farmstead; a 28-acre “entitlement” division, a 32-acre “entitlement” division and the remaining 70 acres to include the last “entitlement”. Access to all division are being proposed on either a cartway or township road extension that has not yet been approved.

Present: Applicant not present

A. Rhineberger explained the applicant signed the waiver for a decision under 15.99 to delay this matter in order to meet with the Town Board. He noted the details on the cartway are being worked out and the applicant wants time for that and to get road bids.

B. Aarestad moved to continue the hearing to September 4, 2020 at the applicant’s request. Quiggle seconded the motion

VOTE: CARRIED UNANIMOUSLY
2. **JOE M. CHENEY** – Cont. from 7/17/20

LOCATION: XXXX County Road 34 NE – Gov’t Lot 4, Section 26; & Part of Gov’t Lot 6, Section 25, Township 120, Range 25, Wright County, Minnesota. (Green Mountain Lake – Buffalo Twp.) Tax #202-000-253302 & -264400 Property owner: Steven J. Cheney
Requests a variance of Section 155.026, 155.048, 155.057, 155.90(C)(Table 3) & 155.095 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow construction of a 3,426 sq. ft. one-level dwelling with a walkout basement 100 ft. from the Ordinary Highwater Mark of a Natural Environment lake. A variance is also requested for proposed septic system to be 100 ft. from the Ordinary Highwater Mark of a Natural Environment lake. Lot was approved by the Board in 1999 and the 100 ft. setback variance expired in 2002. ALSO: requests to build a storage shed measuring 20’ x 50’ x 10’(H) and 40’x 44’ x 16’(H) 100’ from ordinary highwater mark of a Natural Environment Lake.

Present: Joe Cheney and Paul Otto, of Otto Associates

A. Rhineberger summarized the continuation was for revised plans for a 150’ lake setback. The applicant dropped the request for the shed at this time and the Board is only considering the house. A new site plan was provided.

B. Otto stated the new site plan is based on the survey information. He could only find a 20’ x 50’ rectangle area available to build and meet the suggested 150’ lake setback. That would not be reasonable for a parcel like this. He positioned the footprint of the house in the best location taking up that area. Setbacks are 130.9’ to West, 139’ to northeast and a 148’ from the southeast part of lake. It puts it over the back of the hill. The house will be raised up with lookout windows and backfill around it. Septic location has not changed. On a ten-acre parcel if the footprint gets too small, what are they going to get on a 10-acre parcel.

C. Rhineberger stated there is no one from the public on Webex.

D. Quiggle – the Board asked for 150’ and there has been no attempt to downsize the house or attached garage to achieve that. The building plans show all kinds of amenities such as a home theatre, large walk-in closet, larger than her bedroom; she fails to see the hardship and why it could not be downsized. A 140’ setback she would consider.

E. Vick – stated he was in favor before and they have made some improvement. Questioned the variance allowed in 1999. Rhineberger stated the 100’ setback variance expired.

F. Aarestad was in favor before and this is an improvement. Quiggle brings up a good point about downsizing; and, although it would have been nice, he would agree to the changes.

G. Mol – had asked for a 150’ and they did improve on it with repositioning the house. He would not have approved 100’ setback. They are within 10-15’ of a 150’. Although this is a very large home, this is a unique property and a cabin style home would not fit. The Board is to consider the property, which is a beautiful piece and fits.
H. Aarestad moved to approve a variance of Section 155.026, 155.048, 155.057, 155.90(C)(Table 3) & 155.095 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances construction of a dwelling according to the plans on file labeled Exhibit “A” and revised survey labeled Exhibit “B”, that puts the house at the closest point from the west shore 130’, 139.9’ and 148’ from a Natural Environment Lake. Vick seconded the motion.

DISCUSSION: Rhineberger asked if the Board wants to attach any conditions. Discussion on restricting a walkout to the west or earth work to the west to make certain they do not remove the hill, restriction on tree removal and clear cutting within the first 150’.

Aarestad amended his motion to include the following condition: Condition: No clearcutting and no alteration of the hill to the west. Vick amended his second.

VOTE: CARRIED, Quiggle voted nay
3. **MELANIE J. & NATE J. HERRINGTON** – Cont. from 7/17/20

LOCATION: 2837 62nd Street NW – Lot 13 Block 1, Maple Shores, according to plat of record, Section 34, Township 121, Range 26, Wright County (Maple Lake – Maple Lake Twp.) Tax #210-117-001130

Petitions for variances of Section 155.006, 155.008, 155.026, 155.049(F)(3) & 155.057(E) to construct two new additions on the road side of dwelling, a 14’ x 20.5’ and 6’ x 9’ mudroom in addition and a new 20.5’ x 38’ second-story addition onto an existing one level dwelling that is within the bluff and 10.7’ from the side property line. Existing impervious surface coverage at 25.4% will be reduced to 24.9% through removal of existing impervious lot coverage.

Present: Melanie Herrington, Nate Herrington participated remotely

A. Rhineberger reviewed the size of the lot on Maple Lake and request to allow two main-level additions toward the road and a new second-story above existing one-story structure and deck. The structure is within the bluff (southwest corner). The matter was continued for Town Board review. The information the Board requested was the height of adjacent structures and information on storm-water management. He received updated information on neighboring structures and the storm-water management. They have presented a plan to bring impervious lot coverage down by removing concrete. The profiles and pictures of the neighboring structures were viewed which are primarily story-half style. The rain barrels are positioned, and a rain garden proposed. The rain garden is in the bluff and the concern is when there is a heavy rain that exceeds what the garden is designed an overflow will happen. If it runs out, it risks compromising the rain garden, will find the weakest point and overflow down the bluff. How the rain garden works was described. In talking with the applicant about this concern, they felt they would discuss this with the Board since he is not an expert on them. With this much slope and potential volume, he would like a change in location, or spillway to an area where it can collect. A possibility is a drain tile to bring it down to the bottom. Another consideration is a buffer strip to slow it down before going down the hill.

B. Quiggle agreed this is not a good spot for a rain garden. Discussion followed on other options. A native meadow that is wider will help infiltrate the water in an area rather than a rain garden that would require excavation. A series of check-dams along the slope, staggered across the property were suggested by Quiggle to avoid building anything up with dirt to slow down water going down the slope. The figures were only a third of the water coming off the roof. Two rain barrels would not be enough and a series of them are needed.

C. Vick one of his concerns were whether footings were adequate for the second-story. Would want to make sure to avoid digging into the bluff. M. Herrington have engaged with an engineering firm that is scheduled to come on site next week. Vick would like to see that before they start. Rhineberger the eastern addition has a basement under it. That variance was granted in 1990 and would assume it would be adequate. Vick – it would change his opinion if they would have to excavate into the bluff for a foundation. M. Herrington – that part is behind the bluff.
D. Aarestad complimented the applicant for addressing their concerns. Feels this structure will fit into the neighborhood. Concurs with Quiggle’s suggestion with check dams and meadow grasses.

E. Mol – agreed with the comments. Asked Quiggle if they need some assurances with a design first. Quiggle – not sure it will be necessary. Check dams are only a couple feet high. She would be comfortable with a condition of a series of check dams down the slope to dissipate the water and slow the velocity, subject to Staff review. Mol – suggest the conditions include that as well as bringing it under 25% impervious coverage. Quiggle – suggested they require a “as-built-survey”. Rhineberger if that is required give a year after final construction to finish the site work. Rhineberger asked for more direction on a native grass buffer, noting 1040 is where the slope picks up? Quiggle – 10’ back from the 1040 elevation for that.

F. Rhineberger – opened up to comment from Nate or anyone on Webex. No response.

G. Aarestad moved to grant variances of Section 155.006, 155.008, 155.026, 155.049(F)((3) & 155.057(E) to construct two new additions on the road side of dwelling, a 14’ x 20.5’ and 6’ x 9’ mudroom in addition and a new 20.5’ x 38’ second-story addition onto an existing one level dwelling that is within the bluff and 10.7‘ from the side property line Subject to the following conditions: 1) Impervious coverage must not exceed 25% with an “as built survey” to be completed and submitted to Staff; 2) Additional rain barrels to be installed for the house and garage to collect water; 3) A series of check dams installed on the bluff to slow water and prairie grasses be established 10’ back form the 1042 elevation; 4) The as built survey to be submitted one year after the completion of the construction; and, 5) Footings are inspected prior to issuance of a building permit to verify they are adequate for the second-story addition. Quiggle seconded the motion.

VOTE: CARRIED UNANIMOUSLY
4. **JEFF D. HAUS** – New Item

LOCATION: 7027 Newcomb Avenue NW – Lot 20, Annandale Beach, according to plat of record, Section 26, Township 121, Range 28, Wright County, Minnesota. (Lake John–Southside Twp.) Tax #217-013-000200 Owner: Michelle O Lass Rev. Trust

Requests a variance of Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to replace the existing 1,720 sq. ft. one level cabin that is 45’ from the Ordinary Highwater Mark of Lake (OHM); 10’ & 13’ from the property lines and remove an existing 440 sq. ft. detached garage that is 2’ from the property line and 48’ from the traveled road centerline. Proposed is a new 1,200 sq. ft. two-story dwelling and 610 sq. ft. attached garage that will be 65 ft. from the OHW, 11’ from the north & 14’ from the south side property lines and 65 ft. from the traveled road centerline. Property to be served by a new Type IV septic system that will be 5 ft. from the traveled road surface.

Present: Jeff Haus & Bernie Miller, MSTS

A. Rhineberger – reviewed the lot on Lake John. There is 66’ of platted road right of way; however, the road is primarily on the backside of the lake lots. Lot size given is based on this area calculated on the impervious lot coverage. Existing structure is one story and is closer to property lines and includes a detached garage. The proposal replaces the structures with a new dwelling, attached garage and sizes and location was reviewed. This moves back 65’ from the Ordinary Highwater mark (OHM), Type IV system is planned only 5’ from the travelled surface. Not a variance but is pertinent to the Board’s consideration and any conditions to protect the sewer. The structure coverage is at the max and impervious coverage limit is met. There is no living space over the attached garage, but it is a two-story dwelling. The cross-section and house plans were viewed. The impervious coverage is dropping from 30% to 25%.

B. Miller - pointed out the existing house and garage locations and they are pulling the dwelling back and attaching them. The patio out front was noted. Much improvement from existing setbacks. Some changes were made to try to get everything as far back from the lake as possible and get the sewer site to work. He felt they have accomplished to get this down under 15% coverage. The reason for the side setback variance is for a fireplace. J. Haus – stated the rest of the structure meets that setback.

C. Vick – they are very close on impervious and would like to get a better look at that. Miller – noted a deck and patio that will be removed. He had included 175 sq. ft. allowance to give the owners an idea on what they can get for a sidewalk. Haus stated the owner wants grass out front, they do not want a big patio. Rhineberger – the only issue is there are two patio doors and an access door between the house and garage and that could take up much of that space, unless the geo-tex backing or pea rock are used. There could not be any concrete lakeside. Haus – the owners are fine with that. Vick – asked the height of neighboring homes. Rhineberger – most are one-story, some story-half. The pictometry was viewed. Vick likes to see new construction fit the neighborhood.

D. Aarestad – plans show a reduced impervious coverage, pulled back off the lake and side yards. He felt they met the spirit of the Ordinance. Felt the distance they have moved back addresses the concern on height. He agrees with the plan.

E. Quiggle – the house could meet a 70’ setback from the OHM, it would need a variance from the road, but that is less of a concern for her. Rhineberger – then the garage would
have to be slid to the north and would prevent them from accessing one of the garage doors because of the septic system. Miller – he spent much time trying to position the sewer and driveway and this avoids a variance for the tanks from a property line. He felt it would be hard to get into the garage as it is. Quiggle – she is satisfied with the explanation. She would like a permanent shoreland buffer along the entire shore, except for a 25’ recreation access. That is the standard they use for a buffer. Miller – had a picture of the shore displayed to show that the lot is very flat out to the trees. He can understand the concern and it is a great idea in some locations. He felt it would be extreme in this case. He noted they are moving back substantially. Quiggle – asked if it is turf to shore? Mol – yes and some rock along the edge of the shore. Mol asked if neighbors on either side have any vegetation along shore? Rhineberger on the north side was required to have some native grass planted.

F. Mol – he likes the fact this applicant has started over and moved back, made the sewer fit. The lot size limits what can be done. The native grasses are a good suggestion, however, does it make sense for one lot that is required to have the natural grass buffer when the rest of the lawns are manicured. Rhineberger reviewed the requirement for the lot to the north and he will have to follow up on whether they established a 15’ buffer when a variance was given in 2017 for a four-season porch.

G. Quiggle pointed out the 25’ is the DNR recommendation; but to be consistent with the neighbor that was asked to provide a 15’, she would apply that to this lot. Rhineberger – agreed 15’ in this case would make sense because it is where the water would pick up speed. Quiggle explained the importance of mitigation and establishing the type of plants that help filter storm water which is important to protect the quality of the lake. Having lawn right up to the shore is bad practice. Miller – asked how much recreation area Quiggle was suggesting? If they can leave 25’ that is agreeable, but the location of the 25’ is important and not where water is diverted. Rhineberger on this site it would not make any difference because the shore looks pretty much the same. The fire pit is on the south end and would agree the 25’ could be on the north end. Aarestad asked if Quiggle amended her request from 25’ to 15’ to match what was required of a neighbor? Quiggle indicated although she prefers 25’, she would concede to the 15’ to match the neighbors.

H. Quiggle moved to grant a variance of Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to replace a 1,720 sq. ft. one level cabin, 45’ from the Ordinary Highwater Mark of Lake (OHM); 10’ & 13’ from the property lines and remove an existing 440 sq. ft. detached garage that is 2’ from the property line and 48’ from the traveled road centerline. Approving a new 1,200 sq. ft. two-story dwelling and 610 sq. ft. attached garage according to building plans, Exhibit “A” and Site Plan Exhibit “B” that will be 65 ft. from the OHW, 11’ from the north & 14’ from the south side property lines and 65 ft. from the travelled road centerline. Property to be served by a new Type IV septic system that will be 5 ft. from the traveled road surface. There is an allowance of a 175 sq. ft. additional impervious coverage for sidewalks/patios. Conditions: 1) An as built survey one year after the completion of construction provided to the Planning & Zoning office; and 2) A permanent shoreland buffer at least 15’ deep from the lake using native plants, except for a 25’ wide recreational area; and, 3) A barrier such as a fence or boulders along the road to protect the sewer. Aarestad seconded the motion.
VOTE: CARRIED UNANIMOUSLY

5. **HEATHER L. JOHNSON** – New Item

LOCATION: 14713 77TH Street NW - Part of Gov’t Lot 4, Section 27, Township 121, Range 28, Wright County, MN. (E. Lake Sylvia–Southside Twp.) Tax #217-000-272403

Requests a variance of Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to expand the dwelling roadside with 28 and 151 sq. ft. additions, new 186 sq. ft. screen porch roadside, 52.5 and 70 sq. ft. road side covered porches and a new 702 sq. ft. half story above an existing dwelling that is 4.3 and 12.1 ft. from the property lines and 44.8 ft. from the lake. Existing deck that is 26.3 ft. from the lake would be reconfigured and would be 36.9 ft. to the lake. Also proposed is a new 24’ x 26’ detached garage that would be 59.4 ft. from the center of a traveled road and have an 8/12 roof pitch. Impervious surface coverage would be reduced from 29.7% to 27% through reconfiguration of deck and removal of stepping stones.

Present: Michael Johnson & Bernie Miller, MSTS

A. Rhineberger displayed the maps and site plans to show the lot on E. Lake Sylvia. A number of main level additions were reviewed. 28 and 151 sq. ft. additions, a 186 sq. ft. and a screen porch lake side, covered porches road side. Plan also includes a half story above the existing dwelling that is 4.3’ & 12.1’ from the property lines, 44.8’ from the lake to the main structure. The setback was not included for the deck/patio because that is ground level and detached. They will replace one that is there. The detached garage would replace an existing one and would need a variance from the road setback at 59.4’ from the centerline of road; a variance is needed for the 8:12 roof pitch. The lot is under one acre and is limited to 6:12 pitch. The storage space in the upper level is at 6’ of head room within the space and meets the limit, it is just the pitch. The current impervious coverage is at 29.7% and plan reduces it to 27%. Plan to remove some stepping stone. Air photo displayed with the overlay of property lines is off and is not a survey. Site plan shows the existing structures and proposed new additions and the changes to impervious. The new driveway is shown, and some deck is taken out. The schematic drawings show the sidewall. Half story is built within the pitch of the roof. Floor plans show a change for an existing basement is below water level and they plan to fill in the majority of that except for a shelter area. The outside access to the basement will be changed and plans show that it will be 6’ high to allow a walk-in style door. The garage plans show a drop down interior access to the storage area. Photos showing the existing house with a fairly flat roof was viewed. The house to the east is a story and half, and other structures along the shore have more than one story. Written approval from the Town Board was received. Applicant, Heather, is on Webex. Rhineberger did an analysis of the additions and modifications and came up with a 39% value of existing structure.

B. Johnson – what exists was there when they purchased the property. The problems they have had is the water in the existing basement and garage every year. The living space they cannot use in the basement due to water would be replaced with living space above. The change in the garage they hope will address the water problems they are getting.
C. Miller – the existing porch is rotting now. The roof is part of the major problems. The owner had hoped to keep the garage in the same place but explained the problems with the existing location. Need a place for storage, and this was the compromise. The garage was moved back and raised up to allow the water to go around it and not on the neighboring lot. The road is narrow and makes it hard to swing in. The impervious in back, although they are over 2-3% it is important feature to control erosion and drainage. The area between the house and garage collects 2” or more of water sitting there. He reviewed the location of concrete over a drain, where there is a pump that collects water for the area and takes the water to the lake. This had been put in many years ago and is necessary to handle the water. The upper level was calculated 700+ sq. ft. in half story, but a portion is loft. Johnson – if 6’6” is livable area, then that area is less. Rhineberger – building code is actually 4-5’ and that is what he based it on. Miller – stated this will not block anyone’s view. This property was built on an ice ride and had discussed new construction. Replacement would have to be in the same location. Rhineberger clarified the space in the upper level of is close to 500 sq. ft.

D. Aarestad questioned the steep pitch of roof and what part of structure? Rhineberger – that is the house and no limit on pitch for the house. Johnson – the loft is on the back half and open lakeside. Aarestad – no problem moving the garage. Because access to the storage loft is inside of the garage noting the concern is the space could be converted; and does not have an objection to the pitch. Not concerned with covered doorway or porch because it is small and roadside. It should be clear the porch is only allowed as a three-season and not to be turned into four-season. The steep pitch so close to the lake is a concern because of the impact that has on the lake. Does not want to set a precedent on height along here. He would like more information on the structures along here. Johnson stated he has a panoramic view to show that. Rhineberger – displayed the Assessor’s pictures to show what exists along the shoreline. Also reviewed the distance from the lake for Aarestad. Most are similar distance as the applicant’s structure from the shore. Aarestad noted sidewalks are needed to get to the door, especially during the winter. He is not convinced that there would not be any change in the future from what is shown on the site plan. He is teetering on the height but is satisfied with the garage and entrance.

E. Quiggle the house is 44.8’ from the OHM and felt any expansion is too much to a nonconforming structure and does not think this is reasonable. The house addition can be downsized as well as the garage to meet the 25% impervious coverage and improve setbacks. No reason the pitch of the garage cannot be reduced to meet the 6:12 like others have had to do. Due to the age of the original structure, questioned if the foundation is going to support this? Rhineberger – stated the basement was allowed with a variance in 1973. Quiggle is concerned whether a 50-year old foundation is going to support a second story addition. Miller informed her that they have discussed with Hoffman Construction. At this time, they don’t expect it will be an issue and this is not a full second-story. The existing roof is almost flat now and handled the Minnesota snow load. Quiggle was not in favor of the plan before them.

F. Vick – agreed the 25% must be met and the garage size could be reduced to meet it along with the 6:12 pitch. The house footings, if meeting requirements, and the house pitch is acceptable.
G. Mol asked the applicant if they considered starting over? Listening to what is involved, filling in an existing basement and adding all these additions to an old structure, they basically leaving walls. Understand the location on the ice ridge, but considering all the corrections, they might be better off starting over. The Board has consistently asked for reductions when structures are this close to the lake. The Board must be consistent, this project challenges the Board’s decision.

H. Miller stated they had looked at rebuilding and could it comply; however, the water and storage of water is the problem and don’t want to flood out the neighbors. He noted a good portion of the house is 50’ from the lake. Felt there is more they can look at to get down to the 25% limit on impervious coverage. Johnson indicated they could make the deck smaller, although what is proposed is half the size that is there now. Another change could be the concrete in back. They are concerned about the water issues and changes in back could impact their neighbor. Rhineberger noted the house plans show four doors lakeside and a large deck (640 sq. ft.). Suggested reducing and concentrating access and size of deck.

I. Mol suggested the hearing be continued to allow the applicant to work out some of these concerns and bring back changes to bring into compliance. Aarestad would like more information on the water issues and how it flows. Mol asked Board members if a site inspection would help? Aarestad and Quiggle agreed it would. Vick asked if the Board is looking at a 25% impervious to include a sidewalk? Miller stated the applicants don’t want that, but he could calculate for pavers or something else.

J. Aarestad moved to continue the hearing to September 4, 2020 to allow for revisions to plans as discussed and a site inspection. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY
6. **AUSTIN J. & ROBIN G. SPIELMANN** – New Item

LOCATION: 6423 Pilger Avenue NW – Outlot H, Bulls Island 2nd Addition; & Part of Gov’t Lot 5, Section 33, Township 121, Range 28, Wright County, Minnesota. (W. Sylvia – Southside Twp.) Tax #217-000-334204 & 217-079-000080

Requests a variance of Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to replace the existing 10’ x 46’ trailer home that is 52 ft. from the Ordinary Highwater Mark of Lake (OHW) with a new 30’4” x 60’ manufactured home with a walkout basement, a 10’ x 30’4” covered porch and 400 sq. ft. deck. Proposed structure meets lake setback; will be 62.8 ft. from the centerline of traveled road.

Present: Darcy Zarns, daughter of applicants; Bernie Miller, MSTS

A. Rhineberger reviewed the lots that have to stay together are 43,040 sq. ft. There is a significant slope, although it does not meet the definition of a bluff. The proposal is to replace a trailer with a 30’4” x 60’ manufactured home, 400 sq. ft. deck on one end and a 10’ x 30’4” covered porch. The variance needed is from the road. House is at 62.5’ from centerline of road and plans show deck or entry are 59.8’ from road. The Town Board approval was received along with a neighbor, Jim Schwebel.

B. Zarns stated her parents have been planning this for a long time and want to replace the mobile with a modest home. Miller added the owners considered building a home and the meet the setbacks. The reasons they chose a manufactured is they are in their 70’s, it would be more expensive and take longer. Also liked the idea of being able to go and look at the finished homes. Only a couple feet too close. Tried to work with the slope and will need to fill around the front to avoid it becoming too steep into the house and accommodate a ramp should it be needed. Rhineberger referred to steps and landing standards, that if not attached are an exception in the shoreland setback. The permitted encroachments is 30” or below grade and no more than 32 sq. ft. in the landing is okay.

C. Mol – the Board is considering the road setback. He does not have any concerns. Town Board approves. Quiggle shares that opinion, but asked if they could move closer to the road? She would prefer variances from a road. This would allow a deck to come off a door on the lake side. It was explained that a sliding door was actually moved to the side, even though they wanted a deck lakeside. Miller advised against pushing the structure back because of the elevation. Discussion on a small amount would keep the house and deck compliant with the lake setback. If the Township approves, he would suggest 10-15’ back. Rhineberger stated that would involve the Town Board review. If this Board wants to give a range the applicant could go back to the Township and provide that action. In general, they do not suggest this because there could be other issues. In this case, there are no other variances. Board members indicated they were willing to give that option. Miller suggested using a setback from the property line, roadside. The road is a public dedicated platted right-of-way. Discussion on a distance that allows for an 8-10’ deck.

D. Vick moved to grant a variance of Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to replace the existing 10’ x 46’ trailer home that is 52 ft. from the Ordinary Highwater Mark of Lake with a new 30’4” x 60’ manufactured home with a walkout basement, a 10’ x 30’4” covered
porch and 400 sq. ft. deck. Proposed structure to meet lake setback; however, will be 55 ft. from the centerline of a traveled road with Town Board approval. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY
7. **CYNTHIA Y. HEUER** – New Item

LOCATION: 7954 County Road 6 SW – Part of SE ¼, Section 10, Township 118, Range 27, Wright County, Minnesota. (Victor Twp.) Tax #219-000-104100

Requests a variance for a 2.5-acre division out of a tillable field on a 33-ft. access strip (“1 per 40” division) according to Section 155.026, 155.048(G)(4)(C), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances

Present: Roger & Cindy Heuer

A. Rhineberger – reviewed the property that is 102 acres and proposed “entitlement” division on a 33’ wide access strip. The Ordinance requirements were reviewed and limits to preserve agricultural land. An access strip is an exception, meant to get to a wooded building site and preserve ag land. Town Board approves. He noted no one in the public is in attendance remotely.

B. C. Heuer – stated Otto Surveying has completed the survey. Looking at a 2-acre building area. Have increased the access road to 44’ wide to align the driveway and the original property line. R. Heuer noted the existing cartway has never been tilled and has been used to get back into the property. C. Heuer – this is a lot for themselves to build a retirement home. The four-generation farm will be taken over by their son and they want him on the farmstead. The farm has no wooded areas to build in, it is all tillable.

C. Vick – stated he knows the property and agreed it is a good spot to build, has a higher elevation.

D. Rhineberger displayed the soils map to show the prime soils but noted these are broad.

E. Aarestad – felt this lot location is less desirable to farm. Has a concern with the length of the driveway and that they did widen the strip but has no strong objection.

F. Quiggle -would agree it would be hard to farm.

G. Mol understands what they are doing. Questioned the Land Use Plan and whether this location/long access strip will interfere? Rhineberger displayed Zoning and Land Use Plan maps. The proximity to Ann Lake was noted, where there are older riparian lots. The biggest factor would be the City moving out and not so much what is in the County’s Plan. R. Heuer – noted the school had wanted to come across the farm and there is a large pipe line going through part of it. Mol – noted they want to avoid creating problems that could impede development; and also the conflicts with building in the middle of a field like a property they had before them last month. C. Heuer – the property around this belongs to them and been in the family for generations. Mol – stated he sees the issues as a member of the County Planning Commission. C. Heuer – after living close to the County Road, would like to get away from the traffic.

H. Vick moved to approve a 3.04 -acre “entitlement” division out of a tillable field on a 44’ access strip according to Section 155.026, 155.048(G)(4)(C), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances. Subject to survey and Deed Restriction. Aarestad seconded the motion. VOTE: CARRIED UNANIMOUSLY
8. RYAN NELSON – New Item

LOCATION: 13073 Aladdin Avenue NW – East 627’ of 8 627’ of SW ¼ of SE ¼; and SW ¼ of SE ¼ & S ½ of NW ¼ of SE ¼ and S ¾ of E ½ of SW ¼, Section 25, Township 122, Range 26, Wright County, Minnesota. (Silver Creek Twp.) Tax #216-100-254301 & -254300 Property owners: Ryan & Sara Nelson & Nelson Acres LLC

Requests an after-the-fact variance to add 8 acres from Nelson Acres LLC (216-100-254300) to the applicant’s existing 9-acre homesite (“1 per 40” division) tax #216-100-254301, according to Section 155.026, 155.048, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances

Present: Ryan Nelson

A. Rhineberger – reviewed the property lines on a map. The applicant’s parcel is 9.02 acres and request is an “after-the-fact” purchase of 8 acres which was outlined. Silver Creek Town Board approval was given.

B. Nelson apologized, did not know a variance was needed to buy more land. In Silver Creek had had thought it was one per forty and did not think adding land was an issue. The original family farm established in 1911 was noted, then his dad built in 1991. The nine acres was given to him as a wedding gift and qualified as an Ag homestead. The additional land will qualify him for an ag homestead rather than residential and a farm mortgage.

C. Aarestad indicated this type of request is a first for him. Although he believes what the applicant is saying and did not know; this is difficult because he does not know if the Board has granted this because of the prime ag land. He would agree it may make common sense and go along with this since the Town Board approves.

D. Quiggle understands what they are trying to do with an AG homestead; but there is no hardship. By Statute, variances cannot be given for financial reasons.

E. Vick would concur with Quiggle and asked what is considered ag? Nelson explained he needs 10 acres under production to qualify for ag and the reason he came up with 8 additional acres. He is the fourth generation on the farm. He has owned the 9 acres and is not going anywhere. Ten years ago his father and he bought the farm from his grandfather. Because farms have become big business, wanted to take it out of personal ownership, they developed a Nelson LLC. There are 110 acres they need to keep in the Corporation because of the economic side of it. Vick stated a 10-acre residential site is the largest they can go. Mol explained the 10 acres the applicant is referencing has to be in production or pasture.

F. Rhineberger – the tax portion is controlled by the State. Vick asked if there is a waiver? Mol – there is no hardship. He understands what the applicant is trying to do. However, if they start allowing these, they will be faced with many similar requests for 15 to 20-acre parcels to qualify for a tax discount. This is a challenge the County has tried to avoid. The Board needs to consider the request as if it came before them prior to the division.
G. Vick would agree that is the way to look at this. Mol was concerned with the precedent it would set. Asked Staff if Findings are needed if this is heading for a denial? Asked the applicant what he wants to do? Nelson was uncertain, thought this fell under the “1 per 40” law. Rhineberger reviewed where this is in Silver Creek Township. The divisions permitted in the Ag zone were described. His option would be to put it back in the farm or purchase a complete quarter-quarter (40 acres). That would also give him an option, should something happen to the Nelson LLC. Once the farmland is split into smaller parcels, it becomes less likely to be farmed.

H. Nelson was uncertain, noting his neighbors do not object. He asked if there is not an exception in the rules when it is a family situation? Mol explained who owns the property is not the issue, but the criteria for granting variances prevent it for financial reasons. Rhineberger explained the options for him. Incorporate the full quarter-quarter of the section, undo the adjustment. The matter could be dismissed if he prefers not to have a denial on the record. Nelson agreed to a dismissal and signed the document.

I. Vick moved to dismiss the petition at the applicant’s request. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY
9. **SUSAN K. ZANDER** – New Item

LOCATION: 10528 & 10265 Lathrop Avenue SW - W ½ of NW ¼ & NW ¼ of SW ¼, except tract desc. on Doc #1426831, Section 29; also Part of E ½ of NE ¼, Section 30, all in Township 118, Range 27, Wright County, Minnesota. (Victor Twp.) Tax #219-000-293200 & -301401 Property owners: Jean Birkholz & Edward Warn

Requests a lot line adjustment according to Section 155.026(E)02, 155.048, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow a division out of the Birkholz property (219-000-293200) that encompasses woods and marshland to be attached to the Warn 7.5 acre parcel that is across the road to the west. (219-000-301401).

Present: Ed Warn, Susan Zander participated by Webex

A. Rhineberger displayed maps to show the two properties. Warn owns a residential parcel across the road from the Birkholz property. Proposing a purchase of 28 acres out of the 108-acre farm. Staff considered whether it was best approaching this as a lot line adjustment or variance. Warn wants the low land and wooded portion and the tillable land will remain in the farm. The proposed division would not include an “entitlement”. Questioned whether it is best attached to the 7.5-acre residential site or left as a separate restricted parcel. Victor Town Board approve.

B. Warn lives across the road and enjoys the natural low area and would like to own and protect it. He has no plans to build there. He would establish some walking trails. Wants to prevent it from another use and keep it as is. The wildlife in that area include sand hill cranes, turkey and pheasant. This would make a nice addition to his property. He and Susan have marked the boundaries to make sure the division does not include any of the tillable portion.

C. Mol asked if there are some highland in the division? Warn pointed out the north side. Rhineberger displayed the contour maps to show elevations.

D. Zander stated she is representing her mother who owns the farmland. She would like Warn to have this property.

E. Vick asked if there is a building site on the highland? Warn stated he is an engineer by education, anything is possible. Everything slopes down to the wetland. Vick stated his concern is that the two entitlements would be forced into good tillable land. This acreage might be an ideal place to keep a couple entitlements. Warn explained the highland slopes down. Vick suggested adding just enough tillable to get the building site. Rhineberger explained what Vick is concerned about, the building sites would be forced in the tillable. Vick did not think it would take much of the land to make that happen. Questioned the suggestion this parcel could be kept separate from the residential lot across the road. Rhineberger stated if this is approved, the Board could leave the option of selling it separate. The other option is to combine under one tax parcel. Warn stated his intention to combine.
F. Quiggle does not object to the proposal and understands the owner wants to keep the entitlements. She noted all the farmsteads were taken out of productive farmland at one time. She does not object to that in this case.

G. Mol understands what Vick is saying. There could be a couple very nice building sites overlooking the swamp. He suggested adding another 10 acres in the corner.

H. Warn indicated this has not been part of their discussion. Rhineberger estimates that would add up to 23 additional acres. Mol noted that would bring it close to a forty. Warn asked if the two entitlements could be used in the land to the south.

I. Mol noted the County’s goal is to avoid going into an open tillable land; and, try to preserve the farmland. Rhineberger using the air photo pointed out where 40 acres would extend. This was a 120-acre farm until recently, when the homesite was broken off. Mol indicated as far as a lot line adjustment without tillable would be okay. Birkholz asked if entitlements could be moved later?

J. Vick is not objecting to what they are trying to accomplish, just trying to look at the future. Mol is concerned this 20 acres is out of the middle of the farm. Warn indicated he would be willing to purchase more, but they did not price that out.

K. Zander – her mom wants to keep the tillable because she rents that out. This does not use any of the entitlements. Mol understands the “entitlements” have value in Wright County. As a member of the Planning Commission he sees what can happen. Try to keep them out of tillable and it appears there may be a couple nice sites on the edge of the wetlands instead of forcing them into the middle of a field. Farmers don’t like farming around these divisions. Zander indicated they can survey this so it does not go into any of the field. Mol does not object to how the buyer intends to use the land, develop trails and preserve it.

L. Rhineberger noted the applicant wants this for recreational land and could end up with a house right on top and would change what he is looking for. There could be a new owner that does not have the same respect for the land. The office processes many 2.5 acre lots out of tillable areas which is allowed by Ordinance.

M. Zander stated the use of entitlements is not what they came before the Board for.

N. Quiggle moved to grant the division as described on Exhibit “A” on file and this parcel does not have to be combined to the Warn parcel across the road. It can have a separate tax parcel. Subject to survey and a deed restriction. Vick seconded the motion.

VOTE: FAILED  Voting for: Quiggle & Vick  Nay: Mol & Aarestad

DISCUSSION:  Aarestad noted the matter could be held over until the next meeting for Chairman, Jones; however, there would not be a full Board because he will not be present. Asked if the parties want to negotiate an entitlement? It was noted they would be open to different ideas, understanding an “entitlement” would change the value. Rhineberger informed the seller they would still have an “entitlement” on the rest of the farm. There could be a two-lot cluster in the farm as another option. Mol – concurred two lot cluster meeting all the zoning requirements could be considered. Rhineberger asked Kryzer if this could be a condition?
Kryzer agreed this could be a reasonable condition. As long as there is a logical connection. Zander indicated they would agree to that type of stipulation.

O. Quiggle amended the motion to grant the division as described on Exhibit “A” on file and this parcel does not have to be combined to the Warn parcel across the road. It can have a separate tax parcel. Conditions: 1) Subject to survey and a deed restriction; 2) the two remaining entitlement divisions must meet current zoning standards, be clustered together in a location that conserves as much of the tillable land as possible. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY
SITE INSPECTION
Board scheduled the site inspection for Wednesday, August 19. Members to meet at the Government Center at 8:15 a.m. or picked up at the Southside Town Hall at 8:30 a.m.

DISCUSSION:
Rhineberger asked the Board members if they are interested in changing the day of the week for their meetings. Board members suggested other days, however, would hold off until end of year.

MEETING WAS CLOSED TO DISCUSS LEGAL MATTERS WITH SCOTT ANDERSON regarding a litigation involving Kiefer vs. Wright County and Diers Corp.

Meeting was reopened to close at 11:55 a.m.

Respectfully submitted,

Barry Rhineberger
Planner

BJR:tp

cc: Board of Adjustment
   Twp. Clerks
   Applicants