

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: APRIL 8, 2022

MINUTES – (Informational)

The Wright County Board of Adjustment met April 8, 2022, in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Paul Aarestad, called the meeting to order at 8:30 a.m. with Board members present: John Jones, III, Dan Mol, Dan Vick, Bob Neumann and Paul Aarestad. Representing the Planning & Zoning Office were, Tracy Janikula, Feedlot Administrator and Barry Rhineberger, Planning & Zoning Administrator. Absent was Greg Kryzer, Assistant County Attorney, legal counsel.

ACTION ON MINUTES FOR THE FEBRUARY 11, 2022, MEETING

On a motion by Neumann, seconded by Jones, all voted to approve the minutes for the February 11, 2022, meeting as printed.

ACTION ON MINUTES FOR THE MARCH 18, 2022, MEETING

On a motion by Jones, seconded by Mol, all voted to approve the minutes for the March 18, 2022, meeting as printed.

1. **MITCH THEISEN** – Cont. from 2/11/2022 & 3/18/2022

LOCATION: 2749 27th Street SW – The SE 1/4 of the SW 1/4, and the SW 1/4 of the SE 1/4 of Section 15 and part of the East 1/2 of the NW 1/4 and the NE 1/4 of Section 22, Township 119, Range 26, Wright County, MN (North Fork Crow –Marysville Twp.) Tax # 211-000-153401, -153400, -221101, -151301

Property Owner: Cynthia M. Theisen Trust

Requests a variance as regulated in Section 155.026(E)(2) & 155.048(G)(4)(c) & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to divide off roughly 20 acres with existing house, from tax parcel 211-000-153400.

Present: Mitch Theisen and Paul Otto of Otto Associates

- A. Rhineberger reminded the Board the item was heard at the prior 2 meetings. The applicant is before the Board regarding two separate but related requests. The 1st being the request to divide off 20 acres with the homesite. The applicant did meet with the Township, but unfortunately, the Township did not provide any written documentation as to what was decided at the meeting. The discussion was turned over to the applicant for elaboration on what was discussed at the Township meeting.
- B. M. Theisen stated the Townships legal counsel was at the last meeting. At the meeting, prior to the last one, the Township indicated they were indifferent to the cartway and stated that they would not take a position on the issue. At the most recent meeting the Townships, legal counsel indicated there is no issue with the Township accepting the cartway and he would provide a specific form that would need to be completed and returned to the Township for review and signatures. That form has yet to be received. Town Board Members there did not have an issue with adopting the cartway. A summary of the meeting was requested but not received. Once the form is received and completed, the plan is to return to the Township for final review. Rhineberger – the Board needs to decide if they would like to move forward with conditions added into the motion that relate to a resolution being established with the cartway. Questioned the applicant if the exact location of the cartway was discussed with the Township. Theisen – the same aerial displayed currently was displayed for the Township and reviewed. Rhineberger – the cartway is the ingress/egress easement on the proposal, with an added turn around. Otto – correct, there will be an added turn around area. A new legal description will need to be written.
- C. Rhineberger stated that he did not realize the Township had not submitted a reply. There is still the house variance to discuss but it would be best for the Board to finish this discussion so there is a clear division between the 2 variance requests.

- D. Vick – turnaround was a concern, that appears to be addressed. Does not like the idea of a cartway but with the turnaround feels better with the plan. Jones – agrees with comments from Vick.
- E. Mol voiced concern making a decision with no paperwork from the Township. Does not want to make a motion at this meeting that could cause issues for the applicant with the Township. Trusts what is being said by the applicant, but no documentation is a concern. Regarding the cartway and access, would like to see both cartways, at the north end of the lot, meet up. Rhineberger – that will automatically occur. The actual Township road does not touch this property. The new cartway will not touch a designated public road, it will only touch the existing legal cartway. Aerial map was displayed with cartways reviewed. Mol – would like to make sure the north and west cartway do touch, which would address future development.
- F. Neumann – concern with the north cartway. If the 20-acre parcel is approved will the other parcels be land locked? Theisen – will own the property to the north and east, and basically everything but the area around the existing house site. Rhineberger – the division will require a survey and Deed Restriction which states the remainder parcels must remain owned in common. Any additional divisions would need to come before the Board for approval. This would establish a usable area for access into the parcels. Neumann questioned if the parcels to the east have entitlements. Rhineberger – that research will be part of the Deed Restriction. Any future divisions would be heard by the Board. Because of the amount of wetland and disturbed soils there are most likely very few buildable sites. Neumann – that is the concern. With only a few buildable sites will all of the entitlements cluster by the cartways. Theisen – plan is to build a single home with no plans to divide for more housesits. Otto – property is limited with the amount of wetlands and the mining operation. There are maybe 1 or 2 buildable sites. Anything disturbed cannot have a Type 1 septic system and the County does not tend to allow new homes on any other type of system. Would most likely see 1 or 2 home sites or possibly sell off the entitlements. Do not foresee a Planned Unit Development with the amount of wetlands and disturbed soils.
- G. Aarestad – was not at the last meeting and did not make the site visit. Has the road width, type or minimum specifications been determined? Rhineberger – the Township will decide road standards. Otto – required cartway width is 33 feet. Rhineberger – what will be the designated cartway is already a decent road used with the mining operation and already handles heavy trucks. Aarestad – hearing from the other members they are looking to continue until the next meeting to allow time for the Township and applicant to complete necessary paperwork.
- H. Mol moved to continue the hearing to May 6, 2022, to allow time for an official response from the Township to be received. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **MITCH THEISEN** – Cont. from 3/18/2022

LOCATION: 2749 27th Street SW – The SE 1/4 of the SW 1/4, and the SW 1/4 of the SE 1/4 of Section 15, Tax # 211-000-153400, and the NE 1/4 of the NW 1/4, and the NW 1/4 of the NE 1/4 of Section 22, Tax #211-000-221101, Township 119, Range 26, Wright County, MN (North Fork Crow –Marysville Twp.). Property Owner: Cynthia M. Theisen Trust

Requests a variance as regulated in Section 155.026(E)(2), 155.048, 155.057(D)(1) & 155.057 (E)(2)(a), Chapter 155, of Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to build a new dwelling 170.2' and pool 141.2' from the Ordinary Highwater Mark of a Transition River.

Present: Mitch Theisen and Paul Otto of Otto Associates

- A. Rhineberger displayed the aerial photo. Reminded the Board this variance for the house placement is in conjunction with the division and access, that was just discussed. The Board was able to do a site visit. Request is for a setback of 153 ft. for the pool and 170 ft. setback for the house on a Transition River, which requires a 200 ft. setback. There was some past discussion on it at the past meeting. The proposed house location with topography, was displayed. Survey shows location of the house on top of knoll with steep slopes going down to south and north. Septic location is to the east in an area left undisturbed. The setback variance is related to the river changing course and moving closer to the preserved house site. If the river had not changed course a variance would not be needed, the site would be roughly 1,000 ft from the river. This is one of the variance justification reasons the applicant has mentioned. House plans are for a slab on grade. Both the house and pool meet the bluff setback requirements.
- B. Otto – the basis for the variance is because the river moved. Historic photos of the mining operation and river progression were displayed. The mining operation was property owner forced but the movement of the river was not. The house site was planned out and would have meet the setbacks if the river did not move. Rhineberger – displayed a photo of the river channel in 1991 while explaining how the river moved. Theisen – area now a river was previously farmed for hay.
- C. Jones question if in front of the house site there is a regularly used canoe route. Theisen – yes, but most people stop near this area because of the marshland. Humphry Park is about ½ mile upriver and where people tend to exit. Most people access at the old bridge or County Road 8. Rhineberger – this is a designated canoe route. The canoe route goes all the way into Rockford, with several access areas and parks along the river. Jones – at the site could see that it might be years until the river decides its path. If the applicant is okay with the house location, related to the river, and the Township approves than he does not see an issue with the request.
- D. Mol questioned if there is any way to gain some distance with the pool setback. Any little bit that can be gained would be an advantage. Going down to the river it is evident that something will eventually need to be done with the bank eroding. You can see the bank is changing and the river is moving. Agrees that the river changing direction did create a hardship. With the plans made years ago and mother nature changing the river he does understand the hardship but would still like to see it moved back. The mining operation does limit the location of the house and pool but would like to see if they can be moved back. Would like to see all of the water drained to the back field. Theisen –will be directing water to the north.
- E. Neumann stated he does not agree with the last two members comments. Does not agree with a variance request for brand new construction on a parcel well over 80 acres. There are variance requests on small lake lots, where there is nowhere else to build because of the road, neighbors, and lake. This is a large piece of property and there is no reason brand new construction cannot meet the setbacks.
- F. Aarestad – did not make the site visit. Likes that the site is a slab home with the direction of the water draining to the north. Shares the concern about the location and would like to see the pool moved back. Has

canoed the river and it is a beautiful location. Over time has seen the river change course. Board member Neumann has a good point regarding the size of the parcel and working more with the required setbacks. Two ways to define hardship. First would be how the homesite was originally planned and laid out. Second would be the hardship pointed out by Mr. Neumann related to the size of the parcel and buildable area. Would be willing to consider if the homesite location can be moved back some to provide more of a buffer from the sandy bank and erosion.

- G. Vick – feels there is too much hill that could erode and is concerned with the location of the house. The river has already shown it will change course. Would prefer to see the entire site pushed back from the river as far as it can go. Feels comfortable at roughly 175 ft. from the river. Rhineberger – is that to the pool or the house? Vick – everything should be moved back, turn the house and 10-15 feet could be gained. Rhineberger – what if they just move the pool, than only talking 5’ movement with the house, is that a big deal. They can still have the pool it just needs to move to a new location. If you start to take off the top, you have to be careful of bluff excavation. Would not want to drop much more because that would get into elevations in that bluff impact zone. Vick – does not want to put an exact number on the setback limit but would like to see the entire site moved back. Otto – right now can’t go lower. Technically, will be grading into the bluff impact zone. Will be grading at 2% from bluff back to house and pool. If the house is moved back, they will have to raise the home to maintain the slope. Vick – can it be turned? Otto – that would be up to the applicant. The house is where it is proposed to take advantage of the river channel view. The Board needs to provide direction on what they are looking for, with details, so proper plans can be drawn. Vick – feels a hardship is that the other location is a long distance from the road.
- H. Mol questioned how many areas are there that have not been disturbed and can support a septic system. Theisen – believes there is 1 that is really close to the existing building. Otherwise, it would have to be down in a field that is about 4 times the distance back and the driveway would be extremely long. Aerial photo was displayed, and potential locations were reviewed. Mol – the location at the back of the lot appears to be in a mined location, if meeting the 200’ setback. Theisen – the thought was that this one location was saved as an ideal location for a house site and the river moved, which created the setback issues. Rhineberger – the septic system is the only item that can’t go in disturbed soils. As long as the house is within a reasonable distance to undisturbed soils the house can go anywhere. The mining is no different than what they do on a normal house site with the dirt movement and grading. The unfortunate item is this is a river lot. Anywhere that meets the 200’ river setback is going to be 10’ below a spot previously mined, so you are not seeing the river and will be behind a 10’ berm. As you move the house back you will drop off in elevation.
- I. Neumann – does not want to plan the house. While at the site noticed a side on the north slope that would be the perfect location for a house with a tuck under garage or a walk out basement. Feels there is other acceptable sites to build a home and therefore will not approve a variance for anything on this size of property. Otto – appears there is another buildable area but if you look at contours it is actually 24’ from the top of a hill, so 20’ from house site to the bottom of the hill, this would be over a walkout or tuck under and would require a large amount of dirt moving. Does not see many tuck under garages anymore unless they absolutely have to. Theisen – a lot of gravel would need to be moved out of that area and make the area look worse. This would impact the view from the river for canoers and be more susceptible to flooding if the hill has to be brought down.
- J. Aarestad – location of the pool is a concern. Feels the setback at 170’, for the house, is workable. If the pool can be downsized or eliminated. Concern is the riverbank eroding. So, moving the pool to give a better buffer. Looks and sounds like there is difficulty on where to put the house without disturbing a large quantity of soil and preserving the viewpoint.
- K. Rhineberger – could things shift just a little to the west, northwest? Doing a little shifting increases the setback pretty quickly. Otto questioned if there is a setback to the hot tub. Theisen – hot tub is not being done. Rhineberger – hot tub does not but a pool does need to meet the setback. A water ordinated structure would not be allowed. Otto – could look at the location and configuration of the pool, if that is the main concern of

the Board. Mol – move the pool and try to move back to maybe not need a variance. If only need a 10' or 15' variance is better than a 65' variance.

- L. Vick questioned if the septic tanks can be shifted. Rhineberger – they can be shifted, but in a place like this, with the gravel, you want to be careful not to lose the ability to gravity feed.
- M. Mol motioned to continue the hearing to May 6, 2022, to allow time for the applicant to revise plans and receive documentation from the Township regarding the cartway. Seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

3. **RACHEL AND DAVID LOWE** - New

LOCATION: 7836 Norris Ave NW – Lot 08, Bay View 1st Addition and Lot 7 Block 1, Bay View 2nd Addition, Section 26, Township 121, Range 28, Wright County, MN (Lake John - Southside Twp.) Tax # 217-017-000080 & 217-080-001070

Requests variances as regulated in Section 155.026, 155.049(F) & 155.057(E) & 155.090(D) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to tear down existing 600 sq. ft. cabin, with 296 sq. ft. deck, and construct a year-round home, with attached garage, of 1384 sq. ft. New home to be 72.8 ft. from Lake John. Also proposing a 12x24 deck that is 61.5 ft. from the lake. Current lake setback is 49 ft. from the deck and 62 ft. from the home. Existing, and proposed, deck and home are within a bluff. The attached garage is proposed with a 28.7 ft. road setback. The existing holding tank will be removed, and a new septic system installed. Proposed septic tanks are 6.6 ft. from the property line and the treatment area is across the road on the backlot. A new well will also be drilled.

Present: Rachel & David Lowe, Bernie Miller of MSTs

- A. Rhineberger displayed maps to show the 9,649 sq. ft. parcel located on Lake John. The property has a related back lot that was approved in 2006. Request is to remove and replace the existing 600 sq. ft. cabin and construct a 1,384 sq. ft. year-round home with an attached garage that will be 72.8 ft. from Lake John. Included would be a 12' x 24' deck that would be 61.5 ft. from a Recreation Development lake that requires a 100 ft. setback. The house setback would improve roughly 11 feet from the lake. By going up with the house the lake setback would be an improvement, even with the increase in building size. Existing holding tank will be replaced with a new system that will be installed on the back lot. The proposed septic tanks would be 6.6 ft. from the property line. The Township did respond with some concerns but gave approval because of the lake setback improvement. One neighbor replied with no objection to the variance.
- B. D. Lowe – his family have been visiting Lake John and Annandale area for many years. Their goal is to build a year-round retirement home. Initially looked at other properties and lakes but in the end came back to Lake John. Involved with the Lake Association. Pursued a home they could tear down and rebuild into a year-round lake home.
- C. Miller – started to look at the site plan when the back lot was created. The current holding tank was given a variance. Typically, in a case like this, if just the holding tank was going to be replaced Staff would see this as an improvement and no variance would be required. Because the house needs a variance the septic portion was included with the request. The east side neighbor has a variance for a drainfield. It is a tight area to get away from the lake, with not a lot of space on the lots and therefore the back lots are a good thing. Looked at different house designs to minimize and balance the impervious coverage. Concern was finding room for a garage. The proposed garage is very small at 20' x 16', which is about as small of a garage you would see. Current building is single story at 618 sq. ft., which really is not big enough to rebuild and make year-round. The house was moved back as far as possible while working with the natural elevations to keep with the walkout style home. Aerial photo displayed and reviewed the neighbor's layout and property lines. Majority of garages in the area are right at the property line and road right-of-way. The Township is used to the garages near the road and are okay with maintaining the road. A few decks by the lake will be removed. There is a small shed to be saved as well as existing steps to the lake. All of the building coverage and impervious includes these items. There is a power line that runs right over the house that will be moved underground and not be an issue.
- D. Mol – proposal is laid out well. With the location and request stated he would like to do a site inspection.
- E. Neumann stated some concerns were addressed by Mr. Miller. Request looked like double the size but going vertical versus all horizontal keeps the footprint small. The footprint square footage is about 148 sq. ft. over

what is currently there. Appreciates the footprint size was kept down. Would be okay doing a site inspection but feels planning on such a small site was done well.

- F. Vick – agree with statements of fellow members. Questioned if the corner of the proposed deck could maybe be cut down and give a little more room from the lake. Rhineberger – pretty parallel. The northwest corner might be about 2 ft. Any reduction in size would be the same amount gained in setback. Many times, with plans from MSTs there is reference for impervious allotment. In this case the doors on the house already have impervious coverage. The front of the house has a door that comes out on the driveway, which is impervious. The other door comes out under the deck with the deck already considered in the impervious, therefore patio could be added under the deck and the coverage would not change. Vick – thought is if the deck was cut back that would help setback and gain impervious. Rhineberger – impervious is right at the limit allowed. In this case no allowance because there is no room for allowance. Vick – in favor of a site inspection. Would like to see the impervious come down a little.
- G. Jones – regarding the walkout, could the home go up versus cut into the hill? Miller – a walkout fits perfectly with the current grade. Jones – would like a site inspection. Rhineberger displayed current site photos and explained the layout of the grade and how it will work with the proposed home. The walkout portion is not as severe as what has been seen in other situations. Jones – these situations are nice to see at the site.
- H. Aarestad – request is quite modest. There is improvement with the septic system and moving the home back. Concern with the presence, does not want to see the home sticking out on the lake. With being right at the allowed impervious limit, would like to see the site and review drainage.
- I. Vick moved to continue the hearing to May 6 , 2022, with a sit inspection prior. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **JOHN REYNOLDS** - New

LOCATION: xxxx 109th Street NW – Lot 28 & 29, Rolling Hills Lake Shore 2nd Addition, Section 08, Township 121, Range 28, Wright County, MN (Southside Twp.) Tax # 217-043-000280

Requests variances as regulated in Section 155.026, 155.049(C)(5), 155.049(F)(2) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and allow the construction of a 28' x 40' (1,120 sq. ft.) with 14 ft. sidewalls, that is 45 ft. from 109th St NW and 55 ft. from 110th St NW.

Present: John Reynolds

- A. Rhineberger displayed the aerial photo and described the property as a 16,343 sq. ft. backlot located between the road right-of-way of 109th Street and 110th Street in Southside Township. The applicant is requesting a 28' x 40' pole building with 14 ft. sidewalls. The building will be 45 ft. from 109th Street and 55 ft. from 110th street, both require 65 feet. The proposed location and building plans were displayed. The variance is needed for the 2 road setbacks as well a variance for the overall building size and height. This lot limits the total accessory size to 1,000 sq. ft. and a single structure can be no larger than 800 sq. ft. with a 12 ft. maximum sidewall height. The proposed building is at 14 ft. in height and not only over the single structure limit but also over the total accessory size limit. The Township did approve the road setbacks and the request as a whole. Several neighbors did respond. Two opposed the request and another asked for additional details.
- B. Reynolds – on the lake since 1979. Moved to this location 7 years ago as this would be a retirement home. Wife had a stroke and no longer feels comfortable driving. Owns farms 100 miles from their lake home. At the farm he stores his motorhome, and it has been vandalized several times. He would like to be able to move the motorhome, a classic bronco, and thunderbird from his farm to this location and store in the proposed shed. Has been working on this plan since January. During the planning moved the shed ahead away from 109th and toward 110th, which dead ends. Is currently working with the neighbor to the east on some drainage issues that arose with a new home build. The water now drains onto his home lot and into his shed. Before the neighbor build their new home, the water would run down a gully between lots 4 and 5 then naturally flow to the lake. A neighbor mentioned the shed would create a draining problem. The draining problem has been there since he has owned the home. There is no drainage on 110th so the water comes down 110th and flows between his lot and the lot to the west, which would be Lot 1 of the 1st Addition and his Lot 1 in the 2nd Addition. Another concern mentioned was the shed would mess with the view of the lake. The location of the shed isn't between anywhere and the lake, so this concern doesn't make sense. The other comment regarding addressing issues with drainage on 110th street isn't related to this request, and it has been happening for years. Previously had asked about building a house on this parcel and there was no way to build a house without variances. The shed can't be moved farther back because of an overhead power line that would cost roughly \$8,000 to move. It doesn't make sense to pay that amount just to gain 8 feet. The other comment stated that the building will be too tall. The area the shed will be located is between 2 cliffs. The top of the roof won't be seen.
- C. Neumann questioned if the drainage is running into the lot where the shed is being built? Reynolds –water runs down 110th Street. The shed wont' change anything with the drainage. Neumann – is the area low grounds, marshy or wet? Reynolds – no, the shed will sit between 2 cliffs that are between 110th St. and 109th Street. Neumann – topography shows it is almost a side hill. Rhineberger displayed the aerial photo and explained how water drains. Reynolds – feels he will help as he tries to get more water to the ditch. Neumann – concern is the amount of roof coverage being added will that much less ground for water to soak into. Aarestad suggested a site inspection. Neumann – seems to be a draining issue, preexisting or related to the building. It might be a good idea to visit the site.
- D. Vick – the height of the building is an issue. There are designs that would allow for a 12 ft. sidewall and increase the height inside the building enough to hold the motorhome. Reynolds – that can be done but does not feel the peak of the roof will be higher than 110th Street. Vick – not a fan of allowing anything above the

800 ft., might be willing to go to 1,000 ft. with no other buildings allowed. Reynolds – that size would defeat part of the purpose of having the building. The reason for the size is so he can store his vehicles because he isn't able to drive them back and forth with his wife not driving.

- E. Jones – agrees this is an odd lot. Not sure about going along with anything above 1,000 sq. feet. The height is also a concern. Would like to look at that lot.
- F. Vick – noticed the Township gave approval for a 26' x 40' and the request is 28' x 40'. Reynolds – spoke with Staff and it was suggested to go 28' x 40' building. Rhineberger – plans showed 26 ft. wide building, but the applicant stated he wanted 28' so the application is for 28' x 40'. Reynolds – could live with a 26' wide garage but a 30 ft long motorhome needs to fit. The motorhome is built so that it won't fit in a 12' door.
- G. Mol – if the rest of the members want a site visit, he would be okay with that but does not see a need for a visit himself. Having trouble finding a hardship. If someone wants to park a few cars in a shed, an 800 sq. ft. shed can accommodate that. There do not appear to be any large sheds or ones with 14' walls in the neighborhood. Personally, struggles with the argument of the need to park a motorhome inside a shed. A motorhome is designed to be outside. Why do large sheds need to be built to park motorhomes inside and why should the Board allow a variance? The idea of a variance so a motorhome can be parked inside is a struggle. Motorhomes are parked outside in the Arizona sun for 6-8 months at a time. But when parked in Minnesota they need to be in a shed. The mentioned cars, pickups, and snowmobiles can fit in an 800 sq. ft. shed with 12 ft. sidewall with the motorhome parked outside. Is fine with the road setback variance. Rhineberger asked for clarification on if 800 sq. ft. or 1,000 sq. ft. would be acceptable? Mol questioned what the Ordinance states. Rhineberger – R1 district states that lots under 20,000 sq. ft. are allowed a single 800 sq. ft. building and no more than a total of 1,000 sq. ft. In this case, there could be an 800 sq. ft. and a 200 sq. ft. but the Board could potentially allow a single structure at 1,000 sq. ft. Mol – would be okay with a single structure at 1,000 sq. ft. but cannot build another 200 sq. ft. Rhineberger – a site inspection would not show anything that really would impact the size or height of the structure. If the Board is okay with the setback variance and wants to keep with what the Ordinance states regarding size, then visiting the site won't really affect the variance. Based on the topography the water from this site will not exasperate any current drainage. Drainage can be addressed with a condition for gutters and direction of water flow.
- H. Aarestad – one of the reasons wanting a site visit was the draining. After hearing the explanation of how water should flow does not feel a site visit is needed. Asked the Board if they would like a site visit. Jones and Neumann stated a site visit was not necessary. Aarestad – concerned with the height being at 14 feet. There are ways to design and build the shed that will allow the motorhome to fit. Would like to keep the building under 1,000 sq. ft. and is fine with the road setback variance.
- I. Rhineberger addressed the applicant. The Board is willing to grant variances but not as requested. One option is to have the Board motion approval of the variances they are willing to approve and build the structure within those guidelines. The other option is to ask the Board to deny the request. Aarestad – can the applicant come back with a revised plan? Rhineberger – feeling is that the Board isn't going to allow beyond the 1,000 sq. ft., so there isn't a reason to revise the building plans. The 1,000 sq. ft. for a single structure is still a variance from what is allowed by Ordinance. Hearing what the Board has said, there is no point in continuing for revised plans. It is clear the Board is willing to approve a single 1,000 sq. ft. building with 12 ft. sidewall at the proposed location. If the applicant states he is not willing to build according to what will be approved then the Board has the option to deny the request, or the applicant can ask to have his request withdrawn. Vick – the approval would still be a 26' x 38' structure. Reynolds stated he could live with a 26' x 38'. Rhineberger – the Board stated they would not approve a 14 ft. sidewall. Vick – scissor trusses could be used to get the needed height. Reynolds – the cost of this building has gone up nearly \$27,000 and no contract is yet signed. If he can't get a big enough building to hold his stuff from the farm location than it isn't worth moving forward. Vick – willing to go with the road setbacks and a single structure at 1,000 sq. ft. but not willing to approve over the 14 ft. sidewall. Reynolds – guarantee the sidewalls won't even be seen. There is a cliff on both sides of the structure. The drainage issue won't change, and it will be same mess that is currently

there. Rhineberger – the shed will be seen by everyone driving by. Vick – the plans show a 12 ft. overhead door. Reynolds – special ordered a 13 ft. door. Rhineberger – addressed the applicant with what direction he would like the Board to move forward with. The options are a motion with what the Board is willing to approve, ask for denial or withdraw request. Reynolds – would like the Board to approve what he requested. Rhineberger – the Board is not willing to approve what was requested and they have indicated what they are willing to approve. If that is not what is wanted by the applicant, the Board can continue for council to prepare finds for denial. If that occurs, only an 800 sq. ft. building with 12 ft. sidewalls that meets all setbacks is allowed. Reynolds – if that is the limit, the building will not be built. Rhineberger – the applicant could ask to have the request withdrawn. Reynolds – worked many months on this plan. The power line is creating an issue with the location and could work if that line was not there. Rhineberger – the issue isn't the location. The Board is willing to approve the setback variance. The issue is the size and sidewall height. The Board is not willing to approve more than a 12 ft. sidewall height or more than a 1,000 sq. ft. building. Aarestad – have to consider other applicants and situations as well. The Board is willing to approve 3 variances. Encourage exploring the building plan and look into scissor trusses. The Board needs to make a decision and move forward. Reynolds – willing to shorten to 38 ft. Aarestad – the Board isn't going to budge on the 12 ft. wall height. Reynolds – those style of trusses double the cost of the roof. Mol – the Board can't make a decision based on the cost. Reynolds – would like to have the Board come out and look at the site and see that the building isn't going to stand out. Rhineberger – the Board has a set of criteria when reviewing variances and finding a hardship. They are stating that they are not finding a reason to grant a sidewall height variance. Aarestad – addressed the applicant with options. If the proposal is not going to work, a new plan can be submitted with a 12 ft. sidewall, withdraw, or deny. Reynolds – down the road there is a building with 16 ft. sidewalls. Vick – that parcel could be a different size and zoned differently. Aarestad asked the applicant what he would like to do. Reynolds – like to withdraw. Can't go with less than 14 ft. sidewall.

J. Mol moved to dismiss the matter at the applicant's request. Neumann second the motion.

VOTE: CARRIED UNANIMOUSLY

5. **DOUG AND JUDY STARRY** - New

LOCATION: 10237 & 10201 Dillon Ave NW, Part of the SE ¼ of the SW ¼, Section 9, Township 121, Range 26, Wright County, MN (Silver Creek Twp.) Tax # 216-000-093402 & 216-000-093400 Property Owners: Douglas W. & Judy M. Starry, William F. & Alicia Christenson

Requests variances as regulated in Section 155.026, 155.048(F), & 155.048(G) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to add approximately 5765 sq. ft. of land to parcel 216-000-093402 (from 216-000-093400). That parcel was created with a variance.

Present: Doug Starry

- A. Rhineberger displayed aerial photo with proposed property lines. The property is 1.04 acres located in Silver Creek Township. In 2017 a variance was approved for the division with the existing home on the 1.04 acres and a property line 35 feet from the barn. The applicant is looking to add approximately 5,765 sq. ft. of land from his property to his daughter's parcel. Township did reply they are in favor of the request.
- B. Starry – giving daughter a little more property. They are looking to build a garage or shed. Reviewed with Staff the setbacks to ensure a shed would work with the proposed lines.
- C. Vick stated no issues found. Jones – nothing of concern. Okay with adding property to a family members property.
- D. Mol – at the 2017 variance meeting was sole member against the request. Some of the same concerns are present with this request. The building setbacks are a concern, has issues with making new lines on a farm site and splitting off with buildings. Currently this is among family but that can change. Thought is that family can build a shed on the other property, as they are already accessing their property through the main farm driveway. Does not see a hardship or need. Did not vote for last request because of the setbacks. Starry – this would add to the property and make it better a situation. By adding the land, a new owner would have enough room to add a driveway.
- E. Neumann – not a nice square piece of property. This is when people get confused where property lines are. Torn on the idea and request. Starry – feels it becomes more square. Neumann – has concerns.
- F. Mol – already granted one variance. Questioned if the barn is supposed to have a 100' property line setback from buildings with animals. Will there be an issue with the setback and this new line? Janikula – the new line and machine shed would meet the required 30' setback. The building with pheasants was previously granted a variance and that line does not change.
- G. Aarestad – has some of the same concerns but feels this is a small piece of land and a modest request. No problem with the variance request.
- H. Vick moved to approve the request as submitted, subject to survey, revised legal description, and the parcels being combined into one Parcel ID by 12-31-2022. Jones seconded the motion.

DISSUCSSION: Rhineberger – there is an existing Deed Restriction so the approval would be subject to a survey and revised Deed Restriction. With a mortgage on the house the owner will need to discuss the option to amend their mortgage and include the new acreage. The parcels cannot sit separate and will need to be combined no later than 12/31/2022.

VOTE: CARRIED; NAY: Neumann, Mol

6. **MAXINE HEDLUND** - New

LOCATION: 7933 County Road 8 NW, Part of the N ½ of the NW ¼ , except tract described in Document #547740, Section 30, Township 121, Range 26, Wright County, MN (NE Lake #153 – Maple Lake Twp.) Tax # 210-100-302102 Property Owner: Maxine G Hedlund Trust

Requests variances as regulated in Section 155.026(E)(2) & 155.048(G) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow an entitlement division over 10 acres (32 acres proposed), with more than 2.5 acres of prime soils, and the remaining 37.4 acres will be a restricted parcel with less than 300 feet of road frontage (289 ft.).

Present: Paul Otto of Otto Associates, Debbie Rudnitski and Steve Hansen with Re/Max

- A. Rhineberger displayed the site plan, aerial with prime tillable soils and reviewed the proposal. The proposed site plan does include the total acreage above and below the water. The proposal shows a 37-acre restricted parcel and a 32-acre parcel, with the current home. The 32-acre parcel has 14-acres above water and the 37-acre parcel has roughly 17-acres above water. One of the variances needed is regarding road frontage. The parcels road frontage is just shy of 600 ft., so one of the parcels will be under the required 300 ft. of road frontage. The proposal shows the restricted parcel needing the road frontage variance with frontage under 300 ft. Suggestion would be to switch which parcel has the 300 ft. of road frontage and the homesite is the parcel that would need the variance. Thought is that if in the future the parcel is placed in the Land Use Plan, for further development, without the 300 ft. of frontage rezoning would not be allowed, without a road being built. Received approval from the Township. Neighbor Dan Pawelk replied that he does not approve of the variance. Note the house parcel does include more than 2.5 acres of prime tillable.
- B. Otto stated that the lake is un-meandered. This means that the property owner does own the property under the lake. Zoning does not count land below the water, but the DNR and surveying does. The goal is to parcel off the home and keep the rest as restricted farmland. There has not been a buyer that is able to purchase the entire parcel. No matter how a new line is drawn there is not enough road frontage for 2 lots to each receive 300 ft. of road frontage. Would be willing to look at the 33 ft. - 66 ft. provision, to preserve agricultural land. With the County Highway and access point a little piece of land would be left landlocked or over the 66 ft. frontage. Possibly could get to 10 acres but there would still be an awkward left-over piece. Feeling is that the un-meandered lake makes this parcel unique and open for a variance. Willing to hear ideas from the Board on how to split off the house. Biggest goal is to get the house site smaller and affordable. The applicant has plans for the remainder to continue being farmed.
- C. Hansen – the lake makes this a unique situation. Potential buyers are saying they are buying unusable land. The mortgage companies are limiting what amount of land they will finance. Reasonable to have the house site with 289 ft. of road frontage and the remainder with the 300 ft. The land use would not change on the remainder land, as it would be deed restricted. The restricted parcel would continue to be farmed or allowed a farm related building. Frequently works with other Counties and tendency is to allow a 10-acre division with the remainder restricted. The mortgage companies are restricting the buyers in what they can purchase and limiting the amount of acreage they are willing to finance. There is a buyer that wants to buy the house site and the remainder later. The lake does make this a unique situation with what amount of the land is actually usable.
- D. Kent Pawelk – neighbor to the south. This was originally 80 acres that has already been divided 3 times. With the 1 per 40 rule an extra entitlement has already been granted. No matter how the split occurs there will be over 2.5 acres of prime tillable that is divided. Either parcel A or B will be short on the required road frontage. Aware that there was a buyer that was interested in buying the entire parcel, but the home inspection was not disclosed. With the non-meandered lake, it would have been known what was being purchased when the current owner purchased the property. Would like to know how many times this 80 acres is going to be

allowed to be divided. Feels this request should be denied. Hansen – there is no entitlement on the restricted parcel.

- E. Vick – trouble with the prime tillable and the oversized lot. Questioned if there is a way put in a 66 ft. or 33 ft. strip along the driveway and keep the acreage closer to 10 acres. Otto – doing so would probably come close to the 10 acres. Over 66 ft. of road frontage would need a variance. Could probably follow the driveway and keep the field more intact. Rudnitski – would there still be lake frontage? Otto – yes, there would be lake frontage. With the aerial displayed the proposal was reviewed with revisions mentioned. Makes sense to do more of a strip, along the driveway, and keep as much tillable out of the house site. Was working off the premises of 300 ft. road frontage and keeping closer to a true 10-acre parcel. Vick – does not want to see the prime tillable go away.
- F. Jones stated he does agree with the suggestion and comments from member Vick. The other item of concern is animals that are not supposed be there. Janikula – not addressed with the current owner as they are selling. Try not to argue with those that won't be there in a few months. Vick – questioned if the setback for animals is 1,000 ft. to the lake. Janikula – after the year 2000, this parcel is not allowed to have cattle or swine within a 1,000 feet of the lake. Horses, goats, and chickens are allowed, just not cattle and swine. Once a property is listed for sale it is too challenging to go after the seller. The building was constructed as a storage shed and is not supposed to house animals. A lean-to was also added without a permit. Rhineberger questioned the setback standpoint. Janikula – as a storage building the location at 75 ft. meets requirements. With animals in the structure, it does not meet the required 100 ft. setback.
- G. Mol questioned how the parcel is listed in the Land Use Plan. Rhineberger – currently zoned Agriculture and in the Plan as General Agriculture. Nearby parcels in the Plan are preexisting R1 lots-of-record and the County Park. There is nothing in the surrounding the area that is in the Plan. It would take quite an extension to have this parcel be anything but AG. Mol – knows the property and knew the previous owner. As mentioned, it already has 3 entitlements divided off the original 80-acre parcel. Rhineberger – the smaller parcel is 1960 lot-of-record. One entitlement went with the parcel that Troy Bremmer now owns. The remainder retained an entitlement, which is the parcel in question. A lot-of-record, created prior to 1978, does not reduce the number of entitlements. Mol – This proposal is cutting right into the middle of a field and wrecking it for agriculture. Historically, has been against dividing up prime soils. With the amount of property above the lake, can't believe there are people that cannot afford it. Is having difficulty finding a hardship. There are people that want a larger parcel of land. Someone could want to add a riding arena or horse stables. Larger parcels, like this, have areas for manure disposal and potential is there to get away from the lake and have cattle and pigs. Not able to sell and make money is not a hardship. Dislikes the idea of splitting the parcel again when it is isn't in the Land Use Plan. If in the plan to be rezoned, even with restrictions, could rezone to Residential Agriculture and have the ability to develop. The parcel is not in the Plan to be split this way.
- H. Neumann questioned how many acres of prime tillable are in Parcel B. Rhineberger asked the Board to continue discussion as he calculated that figure.
- I. Otto – understand hardship if not able to sell. Flip and say this is the family farm with the owner trying to split off the home site and keep the remainder agriculture land with the farm. Does not know where the idea of if the property can be sold or not is a reason for or against a variance. The decision should be up to the landowner to determine what the hardship is. If the road frontage was there, they could divide and sell. Regardless there is no way to make the parcel work with what would be allowed with the ordinances. Selling, yes is a reason for the division request, but on the flip side should not be looked at. The owner wants to split out a 10-acre parcel but there are 3 variances that prevent the division. Issues are the amount of prime tillable, road frontage and acreage. There are items not in control of the current owner. Rhineberger – some of this is on the current owner with the location of the house. By putting the house back as far as it is created issues with acreage. Mol – history of the property is when it was owned by the Bryant's they tried to maximize the property. Sold off the lake portion so they could capitalize on as much as they were allowed. The agriculture

was kept together with the lake frontage and the current owner was able to purchase the entire parcel. It is still in AG land, and we have seen it many times the original homesite has been sold off and this would be a second time for this parcel.

- J. Hansen – moving the line and keeping more of the acreage together shouldn't be a problem. The majority of the prime tillable soils are north of the home.
- K. Rhineberger stated that roughly 4 acres of Parcel B is prime tillable soils. The prime tillable soil map was displayed and reviewed. Pawelk questioned what type of soils were being addressed and how it relates to what is being farmed. Rhineberger explained prime tillable soil versus what is being farmed. Addressing the Board asked if when a variance is applied for doesn't a hardship other than financial need to be found. Aarestad – there are six criteria that the Board addressed and that is what is currently being discussed.
- L. Aarestad – would like to see the prime tillable preserved. If looking at 4 acres of prime tillable the question is how much of the proposed 300 ft. of road frontage and prime tillable area can be reduced. Rhineberger – if a line follows the driveway, at no less than 33 ft., could come to the corner and turn south with a line towards the lake. This would take out roughly 3 acres of prime tillable which would take out more or less all the prime tillable of the house division.
- M. Otto displayed a rough drawing of what Rhineberger laid out and based on what the Board has mentioned. The redrawn line would remove enough prime tillable so that the variance would not be needed. Rhineberger – agreed, there would be a bit to the north of the house but would be most likely less than 2.5 acres. Otto – there is a line that could go closer to the buildings but following the field line makes sense. Aarestad – likes that this idea would preserve farmland. Otto – the restricted parcel would be all agriculture land and most of the prime tillable soils.
- N. Hansen stated there is access off of the restricted parcel.
- O. Vick questioned if the line could be adjusted by the lake more to take out additional prime tillable. Otto – there are options to adjust the line and take out additional prime tillable. Rhineberger displayed the aerial photo and discussion was had about options of where the line could be drawn. Otto – several options are there, and a revised plan could be drawn that would divide off the house and keep as much of the prime tillable with the restricted farmland.
- P. Vick – can a motion be made without a survey of the actual size and lines? Rhineberger – a sketch can be drawn with what is present and submitted as Exhibit A. The Board could request a new concept plan but doesn't feel it is necessary. Aarestad – comfortable with what has been discussed and revised.
- Q. Vick – the restricted parcel will not be allowed a homesite without going to the Board. Rhineberger – a request would have to go before a Board. The transfer of an entitlement is not allowed because of the lot size, without Board approval. Rezoning would have to go before the Planning Commission. Does not see a scenario that wouldn't require either the Board of Adjustment or Planning Commission hearing the request. Pawelk – questioned if he purchased an entitlement from a neighbor would he need to go to the Board to move the entitlement to his property. Rhineberger reviewed how entitlements transfer between properties. In this case, the size of the property is over 10 acres and not allowed an entitlement transfer without going before the Board.
- R. Pawelk questioned what hardship the Board found, besides financial gain. Rhineberger –if the Board approves and someone does not agree with the Board's decision there is 30 days to appeal the decision with the District Court.
- S. Vick motion to approve a revised site plan, labeled Exhibit A, subject to survey, and deed restriction. Seconded by Aarestad.

DISCUSSION: Neumann – people buy 40 acres all the time and the Board should not feel pressured to pass the request just because it is requested before them.

VOTE: CARRIED; NAY: Neumann, Mol

7. **DANIEL ZIMMERLI** - New

LOCATION: 6015 Farmington Ave SE – N ½ of NW 1/4 , Section 1, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax #208-200-012101

Requests a variance as regulated in Chapter 152.025 and 155.026, 155.047(F), 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to increase to 14 animal units, on a property currently containing, and allowed a maximum of 10 animal units.

Present: Daniel Zimmerli

- A. Rhineberger informed the Board this is a 17-acre parcel in Franklin Township. The request is for 14 animal units on a property that was grandfathered in with 10 animal units. In 2015 the Board granted a variance for an addition to the riding arena to be 50 ft. from the property line. Aerial photo was displayed and reviewed. The Township did approve the request indicating there are no other animals on the property. They would like to see a manure management plan set up and the horses must stay inside. One neighbor stated they have no objection. Another neighbor said they object to the request because the owner was aware of the restrictions when the property was purchased.
- B. Zimmerli stated he had included a letter with his application which explained the root cause and hardship related to the request. Agree, weren't aware of the any variance in place and did try to go with an educated purchase. There was an existing business and facility run on the property previously. The true root cause to this is his family is very equestrian oriented. Was a professional trainer for 20 years and his family continues to embrace the rural atmosphere and equestrian lifestyle. Feels this lifestyle builds a moral value a strong worth ethic and compassion for animals. Will not deny the facility does have outdoor boarding horses. The true reason is the opportunity for his family to be around like-minded people and the horse owner community. The reason for wanting additional horses comes down to being able to keep the bills paid. With the rise in heating costs additional boarders would help offset the cost. There are only horses on the property, besides a barn cat and a few dogs. This request is an opportunity to see if there is a chance of adding additional horses. The additional horses would not only give more opportunities to his family but address the riding need in the neighborhood for this type of service. You can't go maybe a ½ mile and find horses. Within the past year a few larger barns, that offered boarding, have closed. Receives a lot of request for boarding. A lot of work has been done to have a well-cared for and managed facility. From a manure management plan to added onsite amenities. Not opposed to creating a very positive relationship with the neighbors. Has not had a chance to speak with all neighbors but wants to make known planning to be around for a long time.
- C. Wallace Johnson – neighbor across the street. The request came up quickly and did not have time to speak with the applicant. Has no feeling for or against the request because not enough is known about the subject. Questioned what animals are included in an animal unit. Rhineberger – a unit is based on the manure any given animal produces. Example would be 333 chickens would be 1 animal unit with a horse or a steer also being a single animal unit. Janikula – a horse is a single animal unit, but a pony is .4 animal units. Johnson – what animal units are proposed, would more horses be added? With that, what will happen with the increase in manure and are there restrictions that go along with manure disposal. Janikula – on this site the manure is placed in a container and hauled off regularly. The applicant manages how often the manure is hauled away. Have visited the site several times and everything is in order. A quarter horse, or larger, is 1 animal unit so the applicant is requesting 14 animal units and could therefore have 14 horses. If he has ponies, he could have more per head, as they are only .4 animal units. Rhineberger – this site is under a manure management plan as part of the feedlot rules. Janikula – the manure is removed by a licensed solid manure waste technician. The owner doesn't need to have a field or space to spread manure. If he chooses to spread manure on his pasture, he can do so. Rhineberger – he just needs to make the Feedlot Administrator aware of what he does with the manure. Johnson – does the applicant intend to have the manure removed or is there an option to leave the manure on the property? Concern is a large portion of the property is cattail swamp, which the animals do not go into, but does not want to see manure dumped into a wetland. Rhineberger – if manure is land applied,

there are rules about distance to bodies of water and wetlands that the Feedlot Administrator keeps tabs on. Johnson questioned how many animal units would be allowed without being grandfathered in. Janikula – 8.5 animal units. Johnson – so looking at a significant percentage increase of animals on the property over what would normally be allowed. The prior owner took immaculate care of the property and also boarded horses and there was never a nuisance. Rhineberger – concern if there is a granted animal unit number. With a set animal unit but no specific condition on the type of animal the owner could bring in any type of animal up to that limit. The Board could specifically condition the type of animals allowed. Johnson – agrees with that thought. Rhineberger – feels in this situation that type of condition would be appropriate.

- D. Robert Gabrelcik – neighbor to the south. Problem with the smell, in the summer. It does get quite ripe and strong. With 4 more animals the smell is not going to get any better.
- E. Jones – concerned with going to 14 animal units when normally would be allowed 8.5 units. Questioned if Janikula sees a concern. Janikula – in this particular case it is about the manure management and the number is not a concern. Jones – in that case does not have a problem with the request.
- F. Mol – challenges with the request. At a prior meeting struggled with the discussion of one horse. Questioned if there is a dirt bike path to the north. Zimmerli – spoke with that neighbor. There was a dirt track that is no longer used and overgrown. They do have two horses there and the plan is to flatten out and turn into pasture. Mol – looked at Beacon and the area is quite developed, pretty much all 10 acre lots. Can understand being close to suburbs and wanting horses and boarding. Already grandfathered 1.5 units over and now asking for an additional 4 animal units. Having 10 or 14 animals isn't going to make a difference with the smell. Where is the line drawn with the number allowed and what is the hardship? Can't find a hardship beyond a financial one. Horses are recreational, just like four-wheelers or expensive fish houses and they are a chosen hobby. Already permitted for 10 animals in a residential neighborhood. Struggling with the request and would like to hear what other members have to say.
- G. Neumann – last month voted against the request for one additional horse. Rules are in place to protect you from your neighbors and your neighbors from you. In this situation will hold firm with the 10 animal units.
- H. Vick – being grandfathered in at the 10 units is already over and above what would be allowed. Does not feel he can go along with the request. Suggest working with the neighbor and maybe an agreement could be worked out.
- I. Zimmerli – appreciates the opinion of the Board. Strongly values the relationship with neighbors. Does not know what happened with the previous animal allotment hearing. That situation might be different in that the animal allotment unit didn't cater to a facility like this, it might have been strictly land use. This location is an outlier and yet it is not because there is a similar boarding facility about a ½ mile down the road. Does not foresee renting from the neighbor as a reasonable solution. As far as manure management goes the frequency of disposal could be increased. Would the Board be willing to meet in the middle?
- J. Rhineberger questioned Janikula if the animal unit limitation is just on zoned properties or those properties within the Land Use Plan. Janikula – the Land Use Plan, depending on what the underlying land use is, might require a Conditional Use Permit if they are not allowed to be at 10 units. Rhineberger – if you have an 18-acre lot zoned AG and in the Plan as AR, what is the limitation? Janikula – in the plan AR is Rural Residential. Any new animal feedlot or animal feedlot expansion which is required to register under in a designated Rural Residential District shall require a conditional use permit. Rhineberger – but there is no limit to animals. Janikula – limited to 300. If the variance is granted the animal units would be over 10 and a CUP would be required.
- K. Aarestad – the Board needs to look at the entire package. Does agree with some of the member comments. History is the manure is managed well, the facility is kept clean and that will likely continue. Clearly want to be a good neighbor and do the right thing. Familiar with the area, as you go down Farmington Road there are

a lot of people that have horses. Struggles with what if there is a neighbor that has the same size lot and wants to request additional animals. What if that applicant doesn't have the same history and management style. Based on the applicant's history, character and what is seen feels that 14 horses can be managed but does not like the idea of basically doubling the allowed animal number. Would consider allowing maybe 12 or 13 animal units.

- L. Jones – what is the difference between the current applicant doing the right thing and the next person asking for more animals and that person not doing the right thing and therefore are not allowed additional animals? Zimmerli – not looking to be a benchmark for the community. Important to point out that the precedence of doing the right thing is a critical part of granting a variance. You don't want people going behind the Boards back and not addressing the Feedlot Ordinances or talking with Staff and making sure they are doing the right thing. Look at the opposing community and there are also others that are in favor of the request. Willing to take feedback to create a positive relationship with neighbors and the Board. Prepared to address any conditions or make changes.
- M. Mol questioned where the horses will be ridden. Do they go out to the gravel road or is there enough property for them to ride? There are times you come around a corner and there are four riders riding down the dirt road and taking up the entire road. Concern is where these additional horses will be ridden. The parcel only has so much land above water. Zimmerli – communicates with anyone that comes to the facility the riding expectations. There is a 70' x 160' indoor acclimated arena, that is used by the boarders. No public is allowed to ride in the arena. They are not a stable and do not provide riding lessons. With aerial displayed areas of the parcel available for riding was reviewed. Recommends outside riding to everyone but very few take the opportunity. Located 3 minutes from the Lake Rebecca Trail Head which can easily be accessed via a quick trailer ride.
- N. Rhineberger – displayed the Land Use Plan and pointed out the entire area is in the Plan for AR. There are 2 other boarding facilities to the north that are currently AG zoned but AR in the Plan. Anything with 10 or more animal units is required to have a CUP. From a zoning standpoint this parcel and the 2 lots to the south would all be limited to .5 animal units per acre. Janikula – this property is grandfathered in because it was at 10 units prior to when the Ordinance was adopted.
- O. Mol moved to close the public hearing portion of the hearing to oral and written testimony and direct Staff to draft Findings consistent with denial for their review at the hearing of May 6, 2022. Neumann seconded the motion.

DISCUSSION: Rhineberger addressed the applicant. If a vote is cast, and passes as mentioned, there is no chance for withdrawal. If the presented motion were to pass no additional animals would be allowed. There is still an option to request a withdraw of the request and the Board would not formally deny. A denial will become a recorded document with the properties abstract. A withdrawal would not. The withdrawal allows for reapplication of the same variance or a revised request right away. With a denial there is at least a 6-month reapplication timeline. Questioned the applicant if he would like the Board to hold off voting and request a withdrawal or request the Board move forward with a vote. Zimmerli – would there be any opportunity to make amendments. Rhineberger – only option right now would be move forward with a vote or the moving party withdraw motion to allow a request to withdraw.

Zimmerli addressed the Board and asked if anyone would be willing to withdraw the motion and approve with a reduced number of animal units or restrictions to horses only with a condition addressing manure management. Questioned why the other variance mentioned was approved and his may not be. Rhineberger – the one referenced was a completely different scenario. The Board allowed more of a temporary variance because of older horses on site and conditions related to no additional animals until in compliance.

Mol recognized the applicant is here in good faith. There are 2 neighbors that presented reservations, they didn't say absolutely not allow the variance. At the last meeting the response from the neighbors and Township were

different than this request. Willing to withdraw the motion for some type of compromise to continue for a better Township and neighbor response. Can't see allowing 14 but maybe 11 or 12 animal units. Would like to have neighbors indicate they have no problem with additional animals. Rhineberger – clarified that the property is already over and would like to see a specific number of animal units.

Aarestad – would allow request to be continue for the applicant to come back with a varied request and additional neighbor responses. Rhineberger – what would continuing resolve? If the Board is only looking to address the number of animals, that can be ironed out without needing to continue. Is the neighbor adding approval going to change the number allowed? The Township already approved at 14 units so going down in number isn't going to change anything with their response. The Board already talked out what they feel are the positives and negatives. Would like to see the Board figure out what number they would be willing to allow.

Mol withdrew his motion. Neumann withdrew his second.

P. Mol moved to approve a variance to allow a total of 12 animal units of equine species only. Based on approval by Franklin Township. Condition: Maintain manure management plan with Feedlot Program Administrator.

DISCUSSION: Rhineberger questioned Janikula if a CUP is required for 10 or more animal units than why is this request before this Board. Janikula – a feedlot expansion that is proposed requires a CUP. The challenge is the way the Ordinance is written. If he owns 40 acres and is AR in the Plan, there are not animal unit restrictions. In this case, he needs the variance to go bigger and the CUP to physically be allowed to be bigger. Rhineberger – the property is already zoned AR and needing a variance because the animal restrictions are tighter. So why the need for a CUP. Technically AR in Plan the zoning already supersedes what the Land Use Plan would do. The Planning Commission would be hearing the same request. This is not like a business request, where there could be a setback variance and then the CUP hearing. Janikula – under the AR zoning district it states that no new animal feedlots or feedlot expansions are allowed. Rhineberger – the way it is written we will need to talk with legal counsel. If stated that way then exceeding 10 animal units is a prohibited use. The Board is not allowed to grant a variance to a use prohibited in a district. Thought is that maybe because the variance is a number variance, that could be an exception to the rule. Janikula – it is not clearly defined.

Mol withdrew his motion due to lack of a second.

P. Mol moved to continue the meeting to May 6, 2022, to allow time for legal clarification on what the Board is allowed to do with the request. Seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

SITE INSPECTION

Board scheduled Friday, April 22nd at 8:00 a.m. for site inspection.

Meeting adjourned at 11:40 a.m.

Respectfully submitted,

Barry Rhineberger
Planning & Zoning Administrator

BR:sld

Cc: Board of Adjustment
Applicants/Owners

Twp. Clerks