

**CHISAGO COUNTY  
BOARD OF ADJUSTMENT & APPEALS  
OFFICIAL PROCEEDINGS  
May 26, 2022**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, May 26, 2022 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Diane Sander, Land Services & Parks Specialist.

Vice Chair Carlson called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was then taken. Board members present: Gregg Carlson, Doug Greene, Becky Strand and John Sutcliffe. Absent: Chip Yeager. A quorum was established.

**APPROVAL OF AGENDA** – Motion to approve the agenda as presented by Becky Strand; second by John Sutcliffe. The motion passed and carried unanimously.

**APPROVAL OF MINUTES** – Motion to approve the April 28, 2022 meeting minutes as presented by John Sutcliffe; second by Doug Greene. The motion passed and carried unanimously.

**RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD** – Motion to receive all applications, submittals, reports, and other materials into the record with the addition of one written public hearing comment by Becky Strand; second by Doug Greene. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: public hearing staff reports with attachments and public hearing comment from Sean Vaughn. Copies of all correspondence and meeting materials were made available at the entrance to the hearing room and for electronic distribution.

**PUBLIC HEARINGS – NEW APPLICATIONS**

**Chris Bodell** – Chris Bodell, property owner, requested a Variance to Zoning Ordinance Section 4.08.2, F., allowing a total of 3,048 square feet of accessory storage space in the Rural Residential II (RRII) District where the maximum amount of accessory storage space allowed is 2,000 square feet. The 5.23-acre property is located at 30737 Lofton Avenue, Chisago Lake Township, S31, T34, R20 (PID# 02.00848.40).

Coordinator Gervais presented background information on the Bodell application. The applicant wishes to construct a 36 x 56 (2,016 sf) pole building. The applicant is currently constructing a single family dwelling with attached garage; the attached garage will be 1,032 sf in size. In total, the applicant wishes to have 3,048 sf of accessory storage space. Surrounding properties range in size from less than one acre to 20 acres with single family homes and accessory structures. The subject site is within the Mueller Addition plat; the plat was finalized in 2021 with a total of four parcels ranging in size from 5 to 7 acres. Gervais explained that it is feasible that the Board may see similar Variance requests from all four property owners. It could be said the previous property owner created a “hardship” by creating parcels more compatible with the Agricultural (AG) Zoning District in lot size. The applicant indicated he did not know the County’s regulations as they pertained to the amount of accessory storage space allowed in RRII District. His written statement states that the Variance will allow him to enjoy the basic property rights available to other similarly zoned properties in the area. In response to these statements, staff clarified that not knowing the County’s zoning regulations when purchasing land does not meet the State mandated practical difficulties standard for granting Variances. Further, the property rights available to other similarly zoned properties in the area equate to a maximum of 2,000 square feet of accessory storage space, which means the applicant is requesting a Variance to enjoy property rights not available to other

similarly-zoned properties in the area. The Chisago Lake Town Board recommended approval on May 17, 2022 with no conditions. The Town Board commented that the proposed accessory structure is “wanted for inside storage” and “building design is to complement house.” Technical review was held on May 11, 2022; the committee discussed lack of hardship to support the request. The Technical Review Committee speculated that the lot size, being more than the minimum required area of two acres, is potentially a result of significant wetlands on the site.

Chris and Alisa Bodell were present and available to address questions and concerns. C. Bodell stated he did not know that accessory storage included the attached garage in the total accessory storage floor area. The applicants pointed out that the Zoning Ordinance was not clear that the maximum accessory storage floor area includes the attached garage. C. Bodell included that the proposed accessory structure would be a benefit to the property by increasing the value and taxes, as well as a benefit by having everything stored inside the building as opposed to outdoor storage. Vice Chair Carlson asked each board member for additional questions and comments. Becky Strand asked for clarification on the proposed building size and attached garage and commented that the proposed square footage is quite a bit over the maximum allowable amount. C. Bodell stated that, if the Variance was going to be denied, he would consider reducing the size of the pole building. The Board and applicants conversed on alternative sizes.

Vice Chair Carlson sought public comment; no one was present to testify on the matter. With no additional person wishing to speak, ***motion*** to close the public hearing by Becky Strand; second by Doug Greene. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments. ***Motion*** to approve Resolution No. BOAA2022-0501 by John Sutcliffe, a resolution approving a Variance to exceed the maximum allowable accessory storage area on property located at 30737 Lofton Avenue/CSAH 24 (PID# 02.00848.40) in Chisago Lake Township, with Findings of Fact and conditions as modified, second by Becky Strand. The motion passed and carried unanimously.

**Approved Conditions:**

1. This approval grants a 760-square foot Variance to Zoning Ordinance Section 4.08.2, F, allowing the applicant to construct a total of 2,760 square feet of accessory storage space in the Rural Residential II (RRII) District. The proposed detached accessory structure shall be limited to a size of 36’ x 48’ (1,728 square feet) with 12’ sidewalls.
2. The exterior appearance and color of the proposed detached accessory structure shall match the exterior material, appearance and color of the dwelling.
3. The subject site shall not be further subdivided.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**Bjorn Jacobsen** – Bjorn Jacobsen, property owner, and Frank Henrikson, applicant, are requesting a Variance to Zoning Ordinance Section 5.15, allowing the construction of a single family dwelling and attached garage 97 feet from the centerline of Government Road / County Road 55 where the required minimum setback is 135 feet. **The 109-acre property is zoned Agricultural (AG) and located approximately ¼ mile south of 530<sup>th</sup> Street on the east side of Government Road / County Road 55, Rushseba Township, S11, T37, R21 (PID# 07.00224.10).**

Coordinator Gervais presented background information on the Jacobsen/Henrikson application. Jacobsen’s 109-acre parcel is located approximately 1.25 miles from the County’s northern border. The Assessor’s Office has confirmed that the subject parcel was created in 2016, with land split from adjacent parcels (PID# 07.00213.00 and PID# 07.00224.00). Having been created in 2016 means that the parcel was created more than 40 years after the County adopted zoning regulations. The current property owner purchased the land in 2021. The

topography of the subject site includes elevations ranging from 870' over the eastern two-thirds of the property to 922' near the western boundary with a significant amount of wetlands, covering approximately 98 acres. The building pad is shown to be 3,200 square feet and the applicant reported that the dwelling itself will be approximately 1,600 square feet. The dwelling is proposed to be slab on grade. The site plan also shows a 10,000 square foot septic area north of the proposed dwelling; however, the property owner has not yet tested the soils to determine if the site can support a Type 1 septic system. The property owner is opting to go through the Variance process prior to soil testing. The Rushseba Town Board recommended approval on May 2, 2022 with no conditions. The Town Board commented that "other houses in that area are just as close or closer to the road." Technical review was held on May 11, 2022; the committee discussed the potential for moving the dwelling slightly east, the potential of constructing a walkout style dwelling in order to move the dwelling east, and the potential of reducing the home size to reduce the Variance needed. The committee also commented that the owner will need to demonstrate suitable sites for primary and alternate septic sites.

Henrikson was present and available to address questions and concerns. Henrikson stated that Jacobsen would like to build his home in a style that he likes/wants; however, he has adjusted the design to reduce the amount of Variance needed. Proposed design changes include: reducing the width of the dwelling from 40 ft to 30 ft, changing the style from a slab on grade to a walk out, and locating the dwelling further east by seven feet. With the proposed changes the dwelling would be 115 feet from the centerline of the road, rather than the required minimum setback of 135 feet. Henrikson added that the Variance is needed due to topography of the site. The proposed plan will require a substantial amount of excavation work to lower the building site for drainage and access. This site has a significant drop in elevation. The building plan and soil testing are contingent on the Variance. The Board discussed slab on grade and walkout style dwellings with the attached garage.

Vice Chair Carlson sought public comment. With no members of the audience wishing to speak, Vice Chair Carlson asked staff to read the submitted written comment from Sean Vaughn.

*Sean Vaughn* – I am an adjacent landowner and representing Donald Vaughn Land Trust adjacent to this site. I do not support this request. I have professional experience in natural resource management and have a firm understanding of the value of recognizing setbacks and mitigating environmental impacts. Variances are intended to keep development from occurring in marginal and inappropriate locations. This site is on a narrow bluff with a side-slope that is adjacent to a very valuable wetland. Building here will force encroachment into the road right-of-way and/or the wetland. This landowner has demonstrated poor land stewardship within the wetland and wetland vegetation. Impacts are evident from the bluff on Government Road into the wetland.

With no additional person wishing to speak, ***motion*** to close the public hearing by John Sutcliffe; second by Becky Strand. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments.

John Sutcliffe asked staff if the area was considered a bluff. Coordinator Gervais and Henrikson recalled comments from the Technical Review Committee meeting. John Sutcliffe indicated landowners cannot build in a bluff and would like to verify if the landowner would be able to build in the proposed location. ***Motion*** to approve Resolution No. BOAA2022-0502 by John Sutcliffe, a resolution approving a Variance allowing a reduced roadway setback on property located at 52XXX Government Road / County Road 55 (PID# 07.00224.10) in Rushseba Township, with Findings of Fact and conditions as modified; second by Becky Strand. The motion passed and carried unanimously.

#### **Approved Conditions:**

1. This approval grants a 20' Variance to Zoning Ordinance Section 5.15, allowing the applicant to construct a single family dwelling 115' from the centerline of Government Road / County Road 55.
2. The property owner shall obtain a building permit prior to construction and, further, the dwelling shall comply with all applicable codes and regulations.
3. Prior to or at time of building permit application, the property owner shall demonstrate compliance with the County's requirements for septic systems.
4. The septic system shall be located no less than 60 feet from the centerline of Government Road / County Road 55.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**Robert Benjamin and Kari Mattson** – Robert Benjamin (Ben) and Kari Mattson, property owners, are requesting a Variance to Zoning Ordinance Section 4.03, allowing the expansion of a non-conforming use in the Rural Village Center (RVC) District. The property owners wish to construct a new accessory structure (garage); the structure would be accessory to a legal non-conforming use located at 15845 Wenell Avenue, Amador Township, S25, T35, R20 (PID# 01.00368.00).

Coordinator Gervais presented background information on the Mattson application. Ben and Kari Mattson, property owners, are requesting a Variance to Zoning Ordinance Section 4.03, allowing the expansion of a non-conforming use in the RVC District. The Mattsons wish to construct a new two-stall garage which the structure would be accessory to a legal non-conforming use. The Mattsons purchased the property in 2002 and, while their written narrative states that the property was zoned residential at that time, the County's 1998 Zoning Map shows the site was zoned Limited Business District. It is unknown when the dwelling was constructed but it was most likely prior to the County adopting its first Zoning Ordinance in 1973, making the dwelling a legal non-conforming use.

As a point of clarification, in looking at the 1998 Zoning Map, it appears that the properties south of Maple Lane (including the subject site and neighboring Rod's Country Corner) were zoned Limited Business District and the properties north of Maple Lane were zoned Rural Residential II District. This means that the subject site was immediately adjacent to the Rural Residential II District in 1998 but was, in fact, zoned for commercial use when the current property owners purchased the property in 2002. The general area has since been Rezoned to Rural Village Center (RVC) District.

The Mattsons' .29-acre property is located north of Highway 95, behind Rod's Country Corner gas station. The site has a single family dwelling and detached single-stall garage. The existing garage is in a state of disrepair. The surrounding properties have been developed with a mixture of uses including Triangle Park and Immanuel Lutheran Church's cemetery to the north and single family residential to the east. The property owners are proposing to construct a new 24' x 28' (672 square foot) two-stall garage between the dwelling and western property boundary. As a non-conforming use in the RVC District, the property owners will only be able to construct the residential accessory structure if granted a Variance to expand the legal non-conforming use. The property owners indicated verbally that, if the Variance is granted, the existing garage would likely be removed from the site. The Amador Town Board recommended approval on May 17, 2022 with the conditions that the proposed garage needs a 10 foot setback from the edge of Wenell Lane and that the existing garage and any debris needs to be removed. Technical review was held on May 11, 2022 and no concerns were identified; however, the following items were discussed: the existing single-stall garage would likely be removed, and the proposed garage would act as buffer between dwelling and Rod's Country Corner.

Ben Mattson was present and available to address questions and concerns. Mattson commented that he wanted to make the site better with a detached garage. Quick discussion followed on the setback from Wenell Avenue. Vice Chair Carlson sought public comment; no one was present to testify on the matter. With no additional person wishing to speak, ***motion*** to close the public hearing by John Sutcliffe; second by Becky Strand. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments. ***Motion*** to approve Resolution No. BOAA2022-0503 by Gregg Carlson, a resolution approving a Variance allowing the expansion of a non-conforming use on property located at 15845 Wenell Avenue (PID# 01.00368.00) in Amador Township, with Findings of Fact and conditions as amended; second by Becky Strand. The motion passed and carried unanimously.

**Approved Conditions:**

1. This approval allows the expansion of a legal non-conforming use in the Rural Village Center (RVC) District through construction of a 24' x 28' accessory structure (two-stall garage).
2. The accessory structure shall be constructed in general conformance with the application materials, including site plan and building plan, dated received April 22, 2022. Any deviation from the approved request shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
3. The accessory structure shall maintain a 10-foot setback from the improved surface of Wenell Lane.
4. The existing accessory structure (single-stall garage) shall be removed from the subject site within one year of the date of Variance approval.
5. The property owner shall obtain a building permit prior to construction and, further, the accessory structure shall comply with all applicable codes and regulations except as permitted by this Variance.
6. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**SP Farms LLC** – SP Farms LLC, property owner, represented by Sarah Storlie, is requesting a Variance to Subdivision Ordinance Section 4.03, B., allowing the creation of a 5-acre parcel from a 79.80-acre parcel on Olinda Trail where the required minimum frontage is 300 feet. The 79.80-acre property is generally located east of Olinda Trail, west of Olympic Trail and south of Chisago Boulevard, Franconia Township, S14, T33, R20 (PID# 04.00370.20).

Coordinator Gervais presented background information on the SP Farms application. The site was created in 2021, split from the adjacent parent parcel PID#04.00370.00. The current property owner purchased the undeveloped land in 2021. The site appears to have been used for agricultural purposes in the past and the current property owner intends to continue utilizing most of the site for agricultural purposes. The property owner wishes to plat a 5-acre parcel in the southwest corner of the subject site with frontage on Olinda Trail / CSAH 25. The 5-acre parcel would be developed for residential purposes while the balance of the land would be used for agricultural purposes. So long as the balance of the land remains 20 acres or larger, it is not required to have road frontage. The site appears to have approximately 260 feet of frontage on Olinda Trail / CSAH 25 and approximately 250 feet of frontage on Olympic Trail, neither of which satisfy the frontage requirement. The Franconia Town Board recommended approval on May 17, 2022 with no conditions. The Town Board commented that the proposed 5-acre parcel would be “kept in the family” for “farm use”. Based on comments from the Town Clerk, the Board had quite a bit of discussion about this request and other options available to the property owner. The Clerk suggested that the Board's recommendation was made reluctantly. Technical review was held on May 11, 2022; the committee discussed options to develop the site without need for a Variance. Based on the Town Board's comments, Gervais clarified that neither the Zoning Ordinance nor the Subdivision Ordinance grant exceptions or exemptions for proposals that involve family members. Further, once

a Variance or other land use request is approved, the County has no authority to require that the land be “kept in the family”. The County Engineer confirmed that the property owner will be allowed access onto Olinda Trail / CSAH 25 but, for visibility and safety concerns, the access should be as far north as possible.

Sarah Storlie and Steve Wagner were present and available to address questions and concerns. Storlie commented that she thought her only option, and easier solution to the issue, was to request a Variance. The five-acre parcel is for a family member and the Variance would keep the farmland intact. Becky Strand questioned the applicant about opposition for a 20-acre parcel, with no road frontage required, which could have an agreement to keep property in farm usage and first right of refusal if sold. Storlie indicated that the family member does not have interest in more than five acres. Coordinator Gervais reviewed the platting process if SP Farms purchased additional land from the neighbor to meet the required minimum frontage. Discussion followed about the potential opportunity of purchasing additional land from the neighbor. Storlie reiterated her thoughts that the Variance request was an easier solution administratively and added that the land is not yet surveyed, and they may have more existing frontage. John Sutcliffe commented that the Board could table the matter to allow the applicants time to discuss purchase options with their neighbor. Sutcliffe added that, if the land purchase is possible, the applicants would not need the Variance. Coordinator Gervais indicated that the Board could table the request and extend the review period for an additional 60 days. Doug Greene indicated that approval could set a precedent for other landowners wishing to create parcels with less than the required amount of frontage.

Vice Chair Carlson sought public comment; no one was present to testify on the matter. With no additional person wishing to speak, ***motion*** to close the public hearing by John Sutcliffe; second by Becky Strand. The motion passed and carried unanimously. Each board member was asked for additional questions and comments. Becky Strand commented, as another option to avoid need for Variance, that the property could be leased. Storlie indicated that was not a feasible option. John Sutcliffe commented that the applicant has options to pursue. ***Motion*** to table the request to allow for further review and consideration and to extend the review period an additional 60 days (the extended review period to expire on August 30, 2022); second by Becky Strand. The motion passed and carried unanimously.

### **Miscellaneous**

Vice Chair Carlson commented on County Board redistricting, commenting that the Board of Adjustment and Appeals is currently in compliance with the Zoning Ordinance and State Statute. Gervais commented that staff is working the County Attorney’s office on this matter as it impacts other boards/commissions in some capacity.

**ADJOURN MEETING – *Motion*** to adjourn by Doug Greene; second by John Sutcliffe. The motion passed and carried unanimously. With no further business the meeting was adjourned at 8:48 p.m.