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**CHISAGO COUNTY**  
**BOARD OF ADJUSTMENT & APPEALS**  
**OFFICIAL PROCEEDINGS**  
**July 28, 2022 - DRAFT**

6 The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, July 28,  
7 2022 in the County Board Room of the Chisago County Government Center.

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

11 Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board  
12 members was then taken. Board members present: Chip Yeager, Doug Greene, Gregg Carlson, John Sutcliffe,  
13 and Becky Strand. Absent: None. A quorum was established with all members present.

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

18 **APPROVAL OF MINUTES** – Motion to approve the June 30, 2022 meeting minutes as presented by Gregg  
19 Carlson; second by Becky Strand. The motion passed and carried unanimously.

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

28 **PUBLIC HEARINGS – NEW APPLICATIONS**

29 **Ronald and Sandra Dyson** – Property owners Ronald and Sandra Dyson requested a Variance to Zoning  
30 Ordinance Section 4.03 and Shoreland Management Ordinance Section 5.52 in order to replace a legal non-  
31 conforming structure (detached accessory structure) in the Rural Residential I (RRI) District / Shoreland  
32 Management District and to exceed the maximum allowable amount of impervious surface. The existing and  
33 proposed structures encroach on the township road, Goose Lake Ordinary High Water Level, and side yard  
34 setbacks. The .12-acre property is located at 46350 Cambridge Drive, Fish Lake Township, S10, T36, R22 (PID#  
35 03.00860.00).

36 Coordinator Gervais presented background information on the Dyson's application which is proposing to  
37 demolish the existing 32' x 30' detached garage and reconstruct a 32' x 30' garage in the exact same location.  
38 They have a statutory right to rebuild a non-conforming structure if rebuilt to the exact specifications of the  
39 existing structure; however, the Variance is needed to expand the non-conforming structure by increasing the  
40 height of the structure. Presently the sidewalls range from 6'8" to 7'3" and would increase to 10' sidewalls to  
41 allow clearance to park vehicles in the garage. The current and proposed impervious surface coverage is 54.48%.  
42 The Dysons own four parcels, with three of the lots being contiguous riparian lots. All four lots are considered  
43 substandard due to area and width. The existing structures – including a single family dwelling on PID  
44 03.00910.00, detached garage on PID 03.00860.00 (subject site), and accessory structure on PIDs 03.00860.00  
45 and 03.00859.00 – are non-conforming in that they do not meet the County's minimum setback requirements.  
46 The three riparian lots, being contiguous and under the same ownership, are required by MN Statute and the  
47 Chisago County Shoreland Management Ordinance to be considered one lot in terms of development and/or  
48

49 sale. Additionally, MN Statute and the County's Shoreland Management Ordinance require that contiguous non-  
50 conforming lots under common ownership must be combined so that they equal one or more conforming  
51 parcels each meeting the minimum dimensional requirements as much as possible. If the Dyson's three riparian  
52 lots are combined, the lot would still be considered substandard in terms of area, but it would be closer to  
53 conforming than present day and it would eliminate the garage's side yard setback encroachment (northerly  
54 property boundary of PID 03.00860.00). The Fish Lake Town Board recommended approval on July 11, 2022 with  
55 no conditions. The Technical Review Committee met on July 13, 2022 and discussed the requirement and  
56 potential condition of combining the three substandard riparian lots and the possibility of relocating the  
57 detached garage to the northernmost parcel (PID 03.00858.00), being that it's a deeper parcel, in order to lessen  
58 the OHWL setback encroachment.

59  
60 Ronald and Sandra Dyson were present and available to address questions and concerns. Mrs. Dyson explained  
61 the couple did not want to increase the project cost with additional excavation of the northernmost parcel.  
62 Chair Yeager asked each board member for additional questions and comments. Gregg Carlson asked if the  
63 amount of impervious surface - being 54.4% - included all four lots or just the subject site. Coordinator Gervais  
64 indicated it was just the subject site. Doug Greene discussed the pitch of the rafters and suggested that it be the  
65 lowest possible so as to not impede the neighbor's view or suggested that if the garage was built on the  
66 northernmost parcel the neighbor's view would improve. Mr. Dyson indicated the northernmost parcel floods  
67 regularly and would need a significant amount of fill, whereas the existing site does not flood. Becky Strand  
68 discussed concerns of the impervious surface coverage with the addition of a parking pad. Mr. Dyson indicated  
69 that the existing garage was built in the 1950's and would not pass current building code.

70  
71 Chair Yeager sought public comment. Coordinator Gervais read submitted correspondence from Charles  
72 Groshens.

73  
74 *Charles Groshens* – 46320 Cambridge Drive. We support the request based on our understanding that the new  
75 building will be going into the same footprint but taller than the current structure. The current structure has  
76 reached its maturity and their plan on the replacement seems like a reasonable option.

77  
78 With no members of the audience wishing to speak, ***motion*** to close the public hearing by Becky Strand; second  
79 by John Sutcliffe. The motion passed and carried unanimously. Each Board member was asked for additional  
80 questions and comments.

81  
82 ***Motion*** by Gregg Carlson to approve Resolution No. BOAA2022-0701, a resolution of the Board of Adjustment  
83 and Appeals of Chisago County, Minnesota, approving Variances to Zoning Ordinance Section 4.03 and  
84 Shoreland Management Ordinance Section 5.52 in order to replace and expand a legal non-conforming structure  
85 in the Rural Residential I (RRI) District / Shoreland Management District and to exceed the maximum allowable  
86 amount of impervious surface coverage on property located at 46350 Cambridge Drive in Fish Lake Township,  
87 with Findings of Fact and conditions as presented; second by John Sutcliffe. The motion passed and carried  
88 unanimously.

89  
90 **Approved Conditions:**

- 91 1. This approval allows the expansion of a legal non-conforming structure in the Rural Residential I (RRI)  
92 District / Shoreland Management District through demolition of the existing 32' x 30' accessory structure  
93 (detached garage) and replacement of said structure in the exact location of the original structure. This  
94 approval allows the new 32' x 30' accessory structure to have 10' sidewalls where the original sidewalls  
95 were 6'8" and 7'3". The County acknowledges that the existing and proposed structure – as approved herein  
96 - encroach on the Cambridge Drive right-of-way (township road) and the Goose Lake Ordinary High Water

97 Level. Further, the County acknowledges that the current and proposed impervious surface coverage is  
98 54.48%, as determined by the property owners, where the maximum allowable impervious surface coverage  
99 is 25%.

- 100 2. The accessory structure shall be constructed in general conformance with the application materials,  
101 including site plan, dated received June 27, 2022. Any deviation from the approved request shall require  
102 further review and approval from the Board of Adjustment and Appeals at the property owner's expense.
- 103 3. The property owner shall obtain a building permit prior to construction and, further, the accessory structure  
104 shall comply with all applicable codes and regulations except as permitted by this Variance.
- 105 4. The property owner shall combine the subject site (PID 03.00860.00) with all adjacent substandard parcels  
106 under common ownership, including PIDs 03.00859.00, 03.00858.00 and 03.00910.00.
- 107 5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.  
108

109 **Kenneth and Mary Evanoff** – Property owners and applicants Kenneth and Mary Evanoff requested a Variance  
110 to Zoning Ordinance Section 4.03 and 5.15 and Shoreland Management Ordinance Section 5.52 in order to  
111 construct a dwelling addition closer to the township road and side yard than the required setbacks and to  
112 exceed the maximum allowable amount of impervious surface in the Rural Residential II (RRII) District /  
113 Shoreland Management District. The .21-acre property is located at 32740 N. Center Court, Chisago Lake  
114 Township, S22, T34, R20 (PID# 02.01080.00).

115 Coordinator Gervais presented background information on the Evanoff's application. A Variance was granted on  
116 November 20, 2014 allowing the construction of the existing detached garage approximately 23' from the  
117 improved surface of N. Center Court appears to be situated approximately 5' from the township road Right-of-  
118 Way. The site is in the Chi-Gak-Wa Shores subdivision, platted in 1955, located on the east side of North Center  
119 Lake. The site has a seasonal cabin and detached garage and Evanoffs are proposing to construct a 423 square  
120 foot addition connecting the existing cabin and detached garage. The proposed addition will allow for the  
121 seasonal cabin to become a permanent home. Being that the existing cabin encroaches on the side yard setback  
122 (southerly property boundary) and the detached garage encroaches on township road setback, the proposed  
123 addition will also encroach on the side yard setback and township road setback. Because the proposed addition  
124 is connecting two existing structures, the proposed dwelling with attached garage will not encroach on required  
125 setbacks any greater than the existing cabin and detached garage.  
126

127 The Chisago Lake Town Board recommended approval on July 19, 2022 with no conditions, commenting that the  
128 "connection is also to provide safe walkway between house and garage". The Technical Review Committee met  
129 on July 13, 2022. The committee acknowledged that the septic system was deemed compliant in June 2022. No  
130 other issues or concerns were identified.  
131

132 Kenneth and Mary Evanoff were present and available to address questions and concerns. Chair Yeager asked  
133 each board member for additional questions and comments. John Sutcliffe asked for clarification on the location  
134 of the addition's steps in relation to the side property line. M. Evanoff indicated this was a concept plan and  
135 setback could be addressed. Becky Strand noted concerns of water runoff to the neighbor's property from the  
136 roof lines coming together and recommended a condition for gutters to keep water on the property.  
137

138 Chair Yeager sought public comment.  
139

140 *Joanne and Donald Endres – 32660 N. Center Court.* "We are in favor to the expansion to become a year round  
141 residence."  
142

143 With no other members of the audience wishing to speak, ***motion*** to close the public hearing by Becky Strand;  
144 second by Gregg Carlson. The motion passed and carried unanimously. Each Board member was asked for  
145 additional questions and comments. ***Motion*** by Becky Strand to approve Resolution No. BOAA2022-0702, a  
146 resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances to  
147 Zoning Ordinance Sections 4.03 and 5.15 and Shoreland Management Ordinance Section 5.52 in order to expand  
148 a legal non-conforming structure in the Rural Residential II (RRII) District / Shoreland Management District and  
149 to exceed the maximum allowable amount of impervious surface coverage on property located at 32740 N.  
150 Center Court in Chisago Lake Township, with Findings of Fact and conditions as amended; second by Gregg  
151 Carlson. The motion passed and carried unanimously.

152

153 **Approved Conditions:**

- 154 1. This approval allows the expansion of a legal non-conforming structure in the Rural Residential II (RRII)  
155 District / Shoreland Management District through construction of a 422.5 square foot addition connecting  
156 the existing dwelling and detached garage. This approval grants the following Variances:
- 157 a. A 5.5' Variance to the side yard setback requirement allowing the proposed dwelling with attached  
158 garage to be situated 4.5' from the southerly property boundary;
  - 159 b. An approximate 25' Variance to the OHWL setback requirement allowing the proposed addition to  
160 be situated approximately 50' from the OHWL;
  - 161 c. An approximate 14' Variance to the township road setback requirement allowing the proposed  
162 addition to be situated approximately 26' from the township road Right-of-Way; and
  - 163 d. A .7% Variance to the maximum amount of impervious surface coverage allowing the subject site to  
164 have an impervious surface coverage of 25.7%.
- 165 2. The addition shall be constructed in general conformance with the application materials, including site plan,  
166 dated received June 27, 2022. Any deviation from the approved request shall require further review and  
167 approval from the Board of Adjustment and Appeals at the property owner's expense.
- 168 3. The property owner shall obtain a building permit prior to construction and, further, the accessory structure  
169 shall comply with all applicable codes and regulations except as permitted by this Variance.
- 170 4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.
- 171 5. The property owner shall mitigate water run-off with the use of gutters and/or other measures to keep  
172 water from the neighboring properties.

173

174 **Gerald and Holly Schellbach** – Property owner Gerald Schellbach is requesting a Variance to Zoning Ordinance  
175 Section 4.08.2, F., allowing a total of 2,629 square feet of accessory storage space in the Rural Residential II  
176 (RRII) District / Shoreland Management District where the maximum amount of accessory storage space allowed  
177 is 1,437 square feet. The property is located at 51060 Rush Lake Way, Nessel Township, S14, T37, R22 at  
178 (PID# 06.01173.00 and #06.01185.00).

179

180 Coordinator Gervais presented background information on the Schellbach application. Schellbach applied for  
181 Variances in 2019 allowing the subdivision of a platted parcel without utilizing the formal platting process in  
182 order to add the subdivided land to two adjacent substandard lake properties owned by Schellbach and  
183 Truskolaski; and, allowing the applicant to exceed the maximum amount of accessory storage space by  
184 constructing a 30' x 60' accessory structure on the newly subdivided parcel (PID 06.01173.00). Ultimately, the  
185 Board approved Variances on December 5, 2019 allowing for the subdivision as proposed but the Board only  
186 granted approval for a 30' x 40' accessory structure. As is typical with Variance approvals, the County required

187 that the Variance be used within one year or it would become null and void. Unfortunately, Schellbach failed to  
188 make use of the Variance within one year and it did in fact become null and void. The applicant's written  
189 narrative states the property owners never received notification (legal recording) of the approved Variance for  
190 accessory storage space and were therefore unaware that the Variance had to be used within one year of  
191 approval. As a point of clarification, the project file does include record of County staff emailing the legal  
192 recording to property owner Holly Schellbach on January 15, 2020 (the month following Board approval) and H.  
193 Schellbach acknowledging receipt on the same date. Additionally, the legal recording was mailed to the property  
194 owners on January 15, 2020. The legal recording includes a statement that the "Variance must be made use of  
195 within one year of the date of approval or it shall become null and void".  
196

197 The 2019 Variance to subdivide a platted lot without formal re-platting created the present-day parcel identified  
198 as 06.01173.00 with a lot area of .25 acres or 10,930 sf. The Variance was approved with two conditions – one  
199 requiring that a survey be prepared to verify lot lines and one requiring that both newly created lots must be  
200 combined for zoning and building purposes (utilizing the Department of Environmental Services' "Tie Together"  
201 process) with the non-conforming lake lots across the street. Both conditions of approval were satisfied.  
202 Schellbach's combined parcels are .66 acres or 28,790 sf in size.  
203

204 The subject site is located on the east side of East Rush Lake. Schellbach's property is bisected by Rush Lake  
205 Way, which is a private road, and a 26' wide township road Right-of-Way. It's staff's understanding that, despite  
206 the improved road not being located within the public Right-of-Way, the township wishes to maintain the Right-  
207 of-Way for utility purposes. This means that any new structures, such as Schellbach's proposed accessory  
208 structure, are subject to a 40' setback from the township road Right-of-Way.  
209

210 Schellbach is seeking a Variance in order to construct a 30' x 60' detached accessory structure on PID  
211 06.01173.00. The applicant has not provided building plans; however, the site plan shows that the proposed  
212 accessory structure will meet all required setbacks, including the required 40' setback from township road Right-  
213 of-Way. The proposed amount of impervious surface after construction of a 30' x 60' accessory structure is  
214 24.90%. In the past, the Board has viewed Variances on garage space to be reasonable requests on smaller lake  
215 properties. However, in many of those instances, it has been for properties with either no existing garage or  
216 possibly a one stall garage. In the case of the Schellbach request, the property owner has an existing two stall  
217 garage with an additional interior storage area totaling 829 sf plus a 112 sf shed. The applicant wishes to add  
218 1,800 sf which is more than double the floor area of the existing accessory structures and nearly double the  
219 allowable amount of accessory storage space for this particular site.  
220

221 With concerns about the 2019 Variance request, the November 2019 staff report explains that staff  
222 communicated the standards for "Practical Difficulties" as defined by MN Statute with the property owners on  
223 multiple occasions. Ultimately, the property owners felt the proposed size of 30' x 60' was necessary in order to  
224 have adequate indoor storage space for items they own. Staff viewed this request as excessive and believed the  
225 stated "hardship" was entirely created by the landowner. The Board also agreed that the request was excessive  
226 and approved the accessory structure at a reduced size of 30' x 40'. The Chisago Lake Town Board  
227 recommended approval on July 19, 2022 with no conditions. The Technical Review Committee met on July 13,  
228 2022. The property owner reiterated the purpose of the Variance is to secure personal property. The committee  
229 did not identify any issues or concerns.  
230

231 Gerald Schellbach was present and available to address questions and concerns. G. Schellbach indicated his  
232 neighbor has a larger accessory structure therefore his proposed structure would not look out of place. G.  
233 Schellbach indicated he did not get anything in the mail indicating the "Variance must be made use of within one  
234 year of the date of approval or it shall become null and void".



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Chair Yeager sought public comment; no one was present to testify on the matter. With no persons wishing to speak, **motion** to close the public hearing by Gregg Carlson; second by Becky Strand. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments. John Sutcliffe asked about the size of the neighbors' accessory structures; G. Schellbach indicated that it was 40' x 50' and additionally that it was situated on a slightly larger lot.

**Motion** by Becky Strand to allow for the construction of a 30' x 40' accessory structure; second by John Sutcliffe. Discussion followed with an idea to meet the applicant halfway and blending in with the neighbor's structure. John Sutcliffe indicated that a larger accessory structure would not stand out, commenting that the subject site is in a unique area. Discussion was held on the driveway for the structure and its impact on impervious surface coverage. **Motion Amended** by Becky Strand to approve Resolution No. BOAA2022-0703, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance to Zoning Ordinance Section 4.08.2, F to exceed the maximum allowable accessory storage area on property located at 51060 Rush Lake Way in Nessel Township, with Findings of Fact and conditions as amended; second by John Sutcliffe. The motion passed and carried unanimously.

**Approved Conditions:**

1. This Variance grants approval for a combined total of ~~2,141~~ 2,441 square feet of accessory storage space on PIDs 06.01173.00 and 06.01185.00, allowing for the construction of a 30' x ~~40'~~ 50' accessory structure on PID 06.01173.00.
2. The accessory structure shall be constructed in general conformance with the application materials, including site plan, dated received June 30, 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 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.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**Ronald Shoquist** – Ronald Shoquist, property owner, and Stephen Shoquist, applicant, are requesting a Variance to Zoning Ordinance Section 4.03, allowing the expansion of a legal non-conforming structure (dwelling with deck and screen porch) within the Rural Residential I (RRI) District / Shoreland Management District. The property is located at 49310 Amble Ave, Nessel Township, S28, T37, R22 (PID# 06.00618.00).

Coordinator Gervais presented background information on the Shoquist application with a proposed expansion/improvement of an existing deck and screen porch from a size of 16' x 8' (128 sf) to 16' x 20' (320 sf). The existing 16' x 37' structure (cabin and existing deck) is considered non-conforming because it encroaches on the northerly side yard setback. The subject site is 37.53' wide x 352' deep and considered a substandard lot in the Shoreland Management District due to lot area and lot width.

The Shoquist property has been developed with a cabin and two detached sheds. The existing 16' x 8' deck and screen porch sustained storm damage in 2021 and, while they make repairs, they wish to expand the screen porch by 12'. The proposed expanded deck and screen porch will be 16' x 20' (320sf). The proposed expansion will meet all required setbacks, with the exception of the northerly side yard setback. The cabin is considered non-conforming due to an encroachment on the northerly side yard setback, and, due to the cabin's encroachment, the proposed expansion will also encroach on this side yard setback. The northeast corner of the proposed expanded screen porch appears to be set back 9.2' from the north property boundary while the

281 northwest corner appears to be 10' from the property boundary. The required side yard setback is 10'. The  
282 present-day substandard lot was created prior to the requirement for zoning and building permits.  
283

284 The Nessel Town Board recommended approval on July 12, 2022 with no conditions. The Technical Review  
285 Committee met on July 13, 2022 and no concerns were identified. Ronald Shoquist and Gary Larges, son in-law,  
286 were present and available to address questions and concerns. Becky Strand noted concerns of water runoff on  
287 the north side to the neighboring property. G. Larges indicated they could mitigate water runoff. Gregg Carlson  
288 asked for clarification on the screen porch design.  
289

290 Chair Yeager sought public comment; no one was present to testify on the matter. With no persons wishing to  
291 speak, **motion** to close the public hearing by John Sutcliffe; second by Doug Greene. The motion passed and  
292 carried unanimously. Each Board member was asked for additional questions and comments. **Motion** by John  
293 Sutcliffe to approve Resolution No. BOAA2022-0704, a resolution of the Board of Adjustment and Appeals of  
294 Chisago County, Minnesota, approving a Variance to Zoning Ordinance Section 4.03 allowing the expansion of a  
295 legal non-conforming structure on property located at 49310 Amble Avenue in Nessel Township, with Findings  
296 of Fact as presented and conditions as amended; second by Becky Strand. The motion passed and carried  
297 unanimously.  
298

299 **Approved Conditions:**

- 300 1. This approval allows the expansion of a legal non-conforming structure in the Rural Residential I (RRI)  
301 District / Shoreland Management District through the improvement and expansion of an existing deck and  
302 screen porch from a size of 16' x 8' (128 sf) to 16' x 20' (320 sf).
- 303 2. This approval grants a .8' Variance to the side yard (north property boundary) setback requirement allowing  
304 the screen porch addition to be no closer than 9.2' from the north property boundary. The addition shall  
305 comply with all other setback requirements.
- 306 3. The screen porch addition shall be constructed in general conformance with the application materials,  
307 including site plan, dated received June 30, 2022. Any deviation from the approved request and site plan  
308 shall require further review and approval from the Board of Adjustment and Appeals at the property  
309 owner's expense.
- 310 4. The property owner shall obtain a building permit prior to construction and, further, the dwelling addition  
311 shall comply with all applicable codes and regulations.
- 312 5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.  
313
- 314 6. The property owner shall mitigate water run-off with the use of gutters and/or other measures to keep  
315 water from the neighboring properties.  
316

317 **Vincent Charles** – Property owner Vincent Charles is requesting a Variance Amendment in order to amend a  
318 Variance granted in September 2018 allowing the property owner to exceed the maximum amount of accessory  
319 storage space in the Rural Residential II (RRII) District / Rural Residential I (RRI) District / Shoreland Management  
320 District. The proposed Amendment would refine the legal descriptions included in the 2018 legal recording, as  
321 well as modify certain conditions of the 2018 Variance. The subject properties are located at 48107 Autumn  
322 Court, Nessel Township, S34, T37, R22 & S33, T37, R22 (PID# 06.00703.00 and #06.00689.33).  
323

324 Coordinator Gervais presented background information on the Charles application and 2018 Variance allowing  
325 him to exceed the maximum amount of accessory storage space (2,736 sf). The 34.02-acre parcel is located on  
326 the northwest shore of Goose Lake in the Rural Residential I (RRI) District / Shoreland Management District.

327 Despite the size of the subject site, the property is limited to a maximum of 2,000 sf of accessory storage space  
328 based on the zoning classification of RRI. Gervais explained that the 2018 application indicated that Charles was  
329 specifically requesting a Variance for PID 06.00703.00 for equipment storage. The 2018 site plan shows locations  
330 of the existing dwelling with attached garage (Certificate of Occupancy issued on or around July 5, 2018) and the  
331 proposed 30' x 60' accessory structure located directly north of the dwelling on PID 06.00703.00. Being that the  
332 subject site does not have frontage on a public road, it accesses Autumn Court through PID 06.00689.33, also  
333 owned by Charles.

334  
335 Based on the 2018 record, it appears that the Variance request was processed for PIDs 06.00703.00 and  
336 06.00689.33 rather than just PID 06.00703.00. The County-generated public hearing notice, September 27, 2018  
337 Board meeting minutes, and legal recording all reference two parcels rather than one. Further, the legal  
338 recording appears to include the legal description for a third parcel (PID 06.00692.00) which is also adjacent to  
339 the subject site and owned by Charles.

340  
341 Based on review of the 2018 application materials, September 27, 2018 Board meeting minutes and legal  
342 recording, it appears that the request may not have been presented and processed accurately by staff; and, it  
343 appears that the applicant did not provide clarification during the September 27, 2018 meeting. Further, the  
344 2018 record shows that staff notified Charles of the Variance approval (legal recording) by mail on October 18,  
345 2018, and Charles did not dispute the conditions of approval or properties included in the legal recording until  
346 2021-2022. Two parcels that were required by the 2018 Variance to be "tied together" have not been tied  
347 together by the property owner. Charles is requesting a Variance Amendment in order to apply the 2018  
348 Variance approval specifically to PID 06.00703.00 (deleting any and all references to PIDs 06.00689.33 and  
349 06.00692.00) and to eliminate the condition requiring that PID 06.00689.33 and PID 06.00703.00 be tied  
350 together for purposes of zoning and building. Additionally, Charles is requesting a refund of the 2018 application  
351 fee of \$546. In regard to the requested refund of the 2018 application fee, Environmental Services Director  
352 Schneider verbally explained to Charles that a refund is not possible, explaining that application fees are  
353 collected and used to process Variance / land use requests, which includes publication of public hearing notices,  
354 direct mailing of public hearing notices to surrounding property owners, staff time (application review, Technical  
355 Review Committee, preparation of meeting materials and legal recording), and the Board's time. Charles' 2018  
356 Variance request was fully processed and his application fee was used to offset all related expenses. Director  
357 Schneider further explained to Charles that there may have been opportunity to make corrections if he had  
358 pursued these corrections immediately following the 2018 approval, rather than waiting 3-4 years.

359  
360 The Technical Review Committee met with Charles on July 13, 2022 and discussed whether the 34-acre subject  
361 site (PID 06.00703.00) would be considered buildable without road frontage / lot combination with PID  
362 06.00689.33. The issue is that, while the site is 34 acres in size, it does not have a full 20 acres that is at least  
363 500' in width and depth and, therefore, today would require a minimum of 200' of road frontage. Gervais  
364 explained that while this is an important conversation, the fact is that a building permit was issued to Charles in  
365 2017 for construction of a dwelling on the 34-acre parcel at a time when it didn't have any road frontage or a  
366 requirement that the parcel be combined with another parcel which had road frontage. Ultimately, the  
367 Department of Environmental Services declared it to be a buildable parcel in 2017 by issuing a building permit. If  
368 the Board is agreeable to the proposed Variance Amendment but has concern with the loss of / lack of road  
369 frontage, staff would recommend a condition of approval requiring that Charles provide proof of permanent  
370 documented access to the landlocked parcel.

371  
372 Vincent Charles was present to address questions and concerns. Charles indicated that he believed this to be an  
373 administrative correction and is requesting a refund. The conditions and legal recording were not what he had  
374 agreed to in 2018 and he claimed that he did not receive any documentation of the legal recording. Charles



375 discovered the error about a year ago as he was contemplating requesting another variance on the same parcel.  
376 Charles recommended that legal recordings be signed by the property owner and that legal recordings be sent  
377 by certified mail. Charles further claimed that the 2018 minutes were incorrect, explaining that he never did  
378 what the 2018 minutes stated. Charles stated that the only reason for tying the lots together was the placement  
379 of the second accessory structure on a parcel without a dwelling, which if the parcels were tied together, the  
380 accessory structure could be built. Charles provided descriptions of Parcel 1 (house, attached garage and  
381 variance for building), Parcel 2 (Goose Lake Hills subdivision, platted in 2004), and Parcel 3 (another buildable  
382 acreage on Anchor Avenue and adjacent to Parcel 1).  
383

384 A lengthy discussion followed between the Board and Charles on driveway access, land lock, warranty deed, and  
385 reduced cost of access through Parcel 2 to Parcel 1. John Sutcliffe recollected the 2018 project and the  
386 agreement to combine two parcels so that Parcel 1 would not be land locked and the shed could be closer to the  
387 dwelling. Gregg Carlson and Doug Greene discussed easements for access. Charles indicated he did not need an  
388 easement for himself and did not want to pay a surveyor to prepare a legal description for an easement.  
389 Discussion continued on buildable lots, easement locations, shared driveway, and driveway standards for  
390 emergency vehicle access. Charles indicated he could create a center line driveway easement on  
391 PID#06.00689.33 and hope the existing driveway holds for residential use. John Sutcliffe noted trees should be  
392 maintained and cut back for emergency vehicle access.  
393

394 Chair Yeager sought public comment; no one was present to testify on the matter. With no persons wishing to  
395 speak, ***motion*** to close the public hearing by Gregg Carlson; second by Becky Strand. The motion passed and  
396 carried unanimously.  
397

398 ***Motion*** by Gregg Carlson to approve Resolution No. BOAA2022-0705, a resolution of the Board of Adjustment  
399 and Appeals of Chisago County, Minnesota, approving a Variance Amendment for property located at 48107  
400 Autumn Court in Nessel Township, with Findings of Fact and conditions as presented; second by John Sutcliffe.  
401 The motion passed and carried unanimously.  
402

#### 403 **Approved Conditions:**

- 404 1. This Variance amends a Variance granted by the Chisago County Board of Adjustment and Appeals on  
405 September 27, 2018 (Office of Chisago County Recorder, Document #A613690), which allowed a total of  
406 2,736 square feet of accessory storage space in the Rural Residential I (RRI) District, as follows:
  - 407 a. The Variance shall apply to PID 06.00703.00 only. All references and legal descriptions related to  
408 PIDs 06.00689.33 and 06.00692.00 shall be stricken.
  - 409 b. The condition of approval requiring that “the platted lot and large metes and bounds tract be tied  
410 together for purposes of zoning and building” shall be stricken, thereby making PID 06.00689.33  
411 available for sale and/or development.
- 412 2. The property owner shall provide proof of permanent documented access to the landlocked parcel (PID  
413 06.00703.00). Access could take the form of fee title land out to a public road or recording of a permanent  
414 driveway easement. In this case, it appears a permanent driveway easement across the least intrusive  
415 navigable portion of Lot 3, Block 1, Goose Lake Hills (PID 06.00689.33) would be sensible and is  
416 recommended. The easement shall define a minimum width to support the travel and maintenance (snow  
417 storage/drainage) of a driveway suitable for residential and emergency vehicle traffic.
- 418 3. The property owner shall provide proof of permanent documented access to PID 06.00703.00 within one  
419 year of the date of approval or the Variance Amendment shall become null and void.  
420

421 **Motion** by Gregg Carlson to deny the 2018 variance refund. Board members asked staff if a motion could be  
422 made for a refund. Coordinator Gervais indicated this was an unusual request and would have to look into the  
423 matter. Chair Yeager noted a refund could set precedence for future refunds and questioned if the Board has  
424 the authority to approve refunds. Second by Doug Greene. The motion passed and carried unanimously. **Motion**  
425 by Gregg Carlson to approve a refund for the 2022 Variance Amendment Application since it is a correction.  
426 **Motion failed** for lack of second. Charles thanked the Board and recommended that the County utilize certified  
427 mail for correspondence.

#### 428 429 **NEW BUISNESS**

430 **Rob Carlson and Denise Hibben** – Property owners Rob Carlson and Denise Hibben requested a one  
431 year extension of a Variance allowing a reduced roadway setback for an accessory solar energy system  
432 at 17539 Pleasant Valley Road, Franconia Township, S17, T39, R19 (PID# 04.00187.70). Coordinator  
433 Gervais reviewed the July 15, 2022 communication from Carlson/Hibben, explaining delays with  
434 attaining approval for the solar connection to the grid from Xcel Energy. The solar connection has been  
435 placed on a waiting list for supplemental review and it is unlikely that the Variance could be acted on  
436 within the twelve month requirement.

437  
438 Coordinator Gervais stated staff supports the one year extension. **Motion** by Becky Strand to approve  
439 the Variance extension as requested, making the Variance valid until October 28, 2023 at 17539  
440 Pleasant Valley Road, second by John Sutcliffe. The motion passed and carried unanimously.

#### 441 442 **MISCELLANEOUS**

443 **Teresa and Scott Simmons** – Property owners Teresa and Scott Simmons had requested a Variance allowing a  
444 reduced roadway setback to construct a 16' x 28' detached garage closer to the township road than allowed on  
445 property located at 32770 N. Center Court, Chisago Lake Township, S22, T34, R20 (PID# 02.01084.00) at the June  
446 30, 2022 meeting. Coordinator Gervais indicated that the applicants will be coming back to the August meeting  
447 with an amended Variance request following review of the property survey. Becky Strand indicated the property  
448 should be placed on the tour and the property owners should mark the property boundaries and proposed  
449 building site.

450  
451 **ADJOURN MEETING** – **Motion** to adjourn by Becky Strand; second by John Sutcliffe. The motion passed and  
452 carried unanimously. With no further business the meeting was adjourned at 8:49 p.m.

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455