

WRIGHT COUNTY BOARD OF ADJUSTMENT
Meeting of: February 11, 2022
MINUTES – (Informational)

The Wright County Board of Adjustment met February 11, 2022, in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Board members present were: John Jones, III, Dan Mol, Paul Aarestad, Dan Vick & Bob Neumann. Representing the Planning & Zoning Office were, Tracy Janikula, Feedlot Administrator and Barry Rhineberger, Planning & Zoning Administrator; Greg Kryzer, Assistant County Attorney, legal counsel.

ACTION ON MINUTES FOR THE JANUARY 7, 2022, MEETING

On a motion by Jones, seconded by Mol, all voted to approve the minutes for the January 7, 2022, meeting as printed.

1. **JEFFREY ARNOLD** – New Item

LOCATION: 7163 Pilger Ave NW – Lot 30, Shady Nook 1st Addition, Section 28, Township 121, Range 28, Wright County, Minnesota. (W. Sylvia - Southside Twp.) Tax #217-047-000300
Property Owner: Jeffrey J. Arnold

Requests a variance as regulated in Section 155.026, 155.049, 155.057 & 155.090 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to replace existing 838 sq. ft. one level dwelling that is 38.7 ft. from the Ordinary Highwater Mark (OHW) with a new 1,589 sq. ft. two-story dwelling that will be 60.4 ft. from the OHW, 39.9 ft. from the centerline of a platted road, and 13 ft. from the side property line. Property to be served by a new Type IV septic system that will be 16 ft. from the dwelling, 5 ft. from the side property line, and 5 ft. from the platted road right-of-way (16' from traveled centerline).

Present: Jeffrey Arnold, Bernie Miller, MSTS site designer, Brandon Scheuble, KC Custom Home Design Architect

- A. Rhineberger displayed the location map and pictures of the lot and existing one-story dwelling. The property is a 10,587 sq. ft. lot on Lake Sylvia. The existing dwelling to be replaced is 838 sq. ft. at 38.7 ft. from the Ordinary Highwater Mark (OHW). The proposed dwelling is a 1,589 sq. ft. two-story dwelling to be located 60.4 ft. from the OHW. The proposed setbacks were reviewed with the site plan. The proposed Type IV sewer system does require a variance. Proposed 15% lot coverage. With a small allowance for patio and walkways, the impervious will be 25.0%. Included in impervious is the new dwelling, expanded driveway and removal of an existing shed and boathouse. Proposed dwelling and site plan were displayed with a review of the setbacks. Township approved as submitted.
- B. J. Arnold stated they have owned the cabin since 1992 and has been used as a weekend getaway. With the current location of the well and septic, his neighbor to the north is not able to update their septic system. With the new well and septic location this neighbor will now be able to address their septic system. Feels the new dwelling will improve the neighborhood aesthetics. Many of the homes in the area have been replaced or remolded and it is now time for him to do the same.
- C. Miller – the applicant would like this to be their year-round home. This cabin was built in the 40's. The option of remodeling or addition were looked at, but it just made more sense to start from scratch where they could make improvements on the lot at the same time. Moving the structure back from the lake

would allow more green area lakeside. The dwelling was moved back as far as it can go from the lake while staying a decent distance from the road. During the design stage he did review other homes in the neighborhood that have gone through recent variances, and most of those appear to be 40' from the center line of the road. This home will be 39.9' and 60.4' from the OHW; which is further back than the current cabin. To help with impervious coverage, the plan is to remove the shed, boathouse and shorten the driveway. Prior to the Arnolds contacting MSTs the neighbor to the north had inquired about replacing their septic system. The Arnolds well is in a location that does not allow the neighbor to meet the 100' setback, therefore they are not able to replace the septic system. With a new well, the neighbor will be able to replace their septic system. As mentioned, the existing building coverage is 11.4% and will be at 15% , with the majority of the building moving farther from the lake. There is as shed, boathouse and some driveway that will help with adjusting the impervious with a larger home. An allowance of 352 sq. ft. is still available for patio and walkway. Rhineberger – the building plan does show lakeside patio doors on main level with no corresponding patio.

- D. Rhineberger – elevation shows 1055.7, the lowest flower is 1055.35 as the lowest required. Miller – the only points the house needs to be at the full grade is the patio doors and driveway for the garage. An extra course of block can be included in the plans to get the elevation that is needed without fill. Rhineberger – goal is to make sure drainage is kept on the lot and directed within property lines, towards the lake. The lot is fairly flat and low in relation to the lake elevation. With so little slope, a rain garden is not feasible. A stormwater management plan will be pretty simple with directing water towards the lake as there isn't a lot of slope or elevation difference. Miller walked through contours of the lot and noted the high point is near the middle of the lot. Water will naturally be direct half to the lake and half to the roadside. If the Board would prefer changes can be made to drain more roadside. Rhineberger – would prefer keeping roadside and lakeside water split. Miller – with these older lots it is common to see drainage already established along the property lines and issues already addressed. The neighbor to the north has a swale near their septic system and this helps direct water towards the road. Rhineberger questioned the type of soils. Miller – soils are sandy so water in the area tends to disperse and absorbs within an hour of a heavy rain.
- E. Vick – likes that the dwelling is being moved off the lake. Feels the plan was well thought out. Originally questioned the elevation, but feels the explanation satisfied his water flow concerns. Rhineberger – the Board can add a condition stating drainage cannot be directed towards neighboring properties. Vick – the house appears to be far enough back from the lake that it will not interfere with the neighbors' view. Miller – during this process other variances in the area were reviewed and he tried to go in line with what was approved and address concerns that were raised in those situations. Rhineberger – with the slope of the lot a stormwater management plan will be fairly simple. It is up to the Board to decide what they want to see and if they want to add a condition related to runoff. Miller – if we keep water on the property and not directed to the neighbor's, the drainage should take care of itself and not be a problem.
- F. Jones – agrees with the comments the other members have stated and feels the major issues have been addressed. The biggest concern was such a small lot but feels the plans were thought out and the proposal appears to be a good fit.
- G. Mol stated he had concerns that were already discussed and addressed. Recognizes the work Mr. Miller puts into these projects and acknowledges he does a good job of understanding what the Board likes to

see, what concerns are brought up and how they can be addressed. The work he puts into the proposals is appreciated. Questioned how many trees are being removed. Miller – for no tree removal this would have to be an exact replacement. Possibly 5 trees will be removed. From the lakeside, the majority will stay, with most removal being towards the road and back area of the lot. Mol stated he wants to make sure that the aesthetics from the lake remain the same. Miller – the cabin is being pushed back from the lake so the trees lakeside of the cabin will remain. Arnold – does not want to take trees down unless unnecessary. Rhineberger – a condition can be added to address trees and specifically lakeside trees. This condition isn't the easiest to enforce, but in this area, it will be very noticeable when a significant tree is removed. Mol – the water quality issues and making sure water stays within the lot was already addressed. Concerned with impervious and a patio door with no planned patio or deck as part of the current plans. Clear to the owner the allowed amount is at the very max that will be allowed for patio, walkways and a firepit. This lot is at the max for lot coverage, and it is up to the owner to abide by that limit. Rhineberger – it has been a common theme with an allowance. This can be difficult to regulate when issues come up. Mol – that is the concern, once the house is built or changes hands is when building coverage becomes a problem. The limit isn't known or wasn't figured into the initial project. Miller – it is hard to get a plan pinned down and many times a person can't visualize how the lot will look and function before the house goes up. The allowance allows some room, and a person can take a tape measure and visually see and understand what 352 sq. ft. looks like versus a percentage. Mol – make sure everyone involved is aware of the limit and what that means. Miller – good for homeowner to hear, be recorded with the minutes and part of the motion. Sometimes builders or a landscaper don't receive the memo and that is where issues arise. Mol – it is the owners' responsibility to know the limit and watch over their contractor or landscaper and be part of the plan discussion. Rhineberger – the allowance does allow the owner a chance to figure out how they will use the house and add the walkways and patios after the house is up.

- H. Neumann – questioned if Pilger Ave is paved. Rhineberger – yes. Neumann – right-of-way looks to be 20 feet. Are there plans for the road to be widened or updated in the future? Miller – the road is privately maintained and part of the old, platted ROW. It is almost the width of the full ROW, at 17-18 feet wide and was updated a few years ago. The Township did comment they would like to see a condition added that a barrier be in placed near the road that will prevent someone from driving onto the drainfield. This barrier idea has been implemented at other locations when the septic drainfield close to the road. Being on a peninsula, it doesn't make sense to push the drainfield 10' from the road property line and then push the house closer to the lake. Most everyone on that road is up to the road property line or roughly 3-5' from the ROW line. Neumann – concern is being allowed so close to the road what issues could be present when the road is rebuilt or upgraded. Miller – there will be more than just septic systems that will be in the way. There are trees and garages all along that road that will need to be addressed. Neumann – likes that the house is moved back from the lake and more in line with neighbor homes. Likes to see that neighbors don't impede the lake view of others. Feels the septic system 15' from dwelling is reasonable. The rest of the plan is acceptable, as long as the boathouse and shed are removed.
- I. Aarestad – agree with the concerns and comments Board member Neumann made. The location of the house farther from the lake is nice to see. Protecting the septic system with a barrier is a good idea. Not concerned with road traffic, sounds like this is a dead-end road with minimal traffic and therefore good with the setbacks to the road. The septic system close to property line is not a concern. Appears that the location of the neighbor's house being father away isn't going to be affected by the system. Reminder

to the applicant that the impervious limit is right at the max and it is the owner's responsibility this is kept in line. Likes that the plan was created to incorporate the neighbors need with addressing their septic system.

- J. Vick made a motion to approve according to plans submitted. Septic system site plan on file, Exhibit "A"; building plans, identified as Exhibit "B", subject to the following conditions: 1) a barrier, such as boulders, be installed to protect the sewer system; 2) drainage to stay within the property lines; and 3) required to maintain existing tree cover, lakeside of the structure. If a tree is removed or dies, the existing density of tress, from structure to the lake, needs to be maintained. Seconded by Jones.

DISCUSSION: Rhineberger – approval is according to, septic system plan on file, Exhibit "A"; building plans, identified as Exhibit "B", subject to the following conditions: 1) a barrier, such as a boulder, be installed to protect the sewer system 2) drainage to stay within the property lines 3) required to maintain existing tree cover lakeside, of the structure. If a tree is removed or dies, the existing density of tress, from structure to lake, needs to be maintained.

Vick amended his motion to include the exhibits and conditions mentioned during discussion.

VOTE: CARRIED UNANIMOUSLY

2. **CHELSEY POOL** - New Item

LOCATION: 9200 Osborn Ave NW – The North 391.67 feet of the West 392.98 feet of the Southwest Quarter of the Southeast Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 15, Township 121, Range 28, Wright County, MN (Southside Twp.)
Tax # 217- 000-154303 & -154300 Property Owners: Pool & Schultz

Requests a variance as regulated in Section 155.026(E)(2) & 155.048(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to attach roughly 8 acres, from the Schultz parcel (Tax # 217-000-154300) to an existing 3.53-acre residential lot (Pool Tax # 217-000-154303).

Present: Chelsey Pool, Jim Hallstrom

- A. Rhineberger displayed the air photo to show the location of the 37.2-acre restricted parcel and the 3.5-acre entitlement division. A site plan shows the proposed 8-acre division, to be added to the existing house parcel. The 8 acres of mostly cropland, has approximately 1 acre of wetlands in the southern portion of the parcel and the remaining 7 acres is not considered prime tillable. By ordinance allowed to go up to 10 acres, this request would be 11.5 acres. Township did approve.
- B. Hallstrom – representing the seller and farms the land. The Pool family has asked to purchase additional land around their home for their kids and horses. The plan created is outside of the irrigation system boundaries and the southern area is a pond and not farmable. Knowing the ordinance is 10 acres he did draw up 6.5 acres but, in the end, it didn't make sense with the leftover area not able to be farmed. They could bring the acreage into compliance and not be before the Board, but it made sense to bring the line all the way south to 90th street and take into consideration farmable area. There are some other areas on the parcel that the irrigator doesn't reach, where the soils aren't great, there has been discussion about putting that land into the Conservation Reserve Program (CRP). The way the line is drawn is over the 10 acres but makes sense with the ability to farm, irrigation and road.
- C. Pool – goal of the additional land is to have a larger area for personal recreation and bring back to a more natural state. Hope is to encourage deer and pheasants to use the land as well as add pasture area for horses. There is no plan to build or obtain a building entitlement. Their homesite is largely wooded and difficult to pasture horses, they don't want to remove trees.
- D. Jones – does not see any problems with the presented lot lines. Rhineberger displayed the prime tillable soils map, showing most of the soils in the area are not prime. Jones – the way they moved the line and extended south makes sense.
- E. Mol – with the expanded acreage the potential for additional horses and large buildings is possible. Is there a plan to expand the number of horses or buildings? Pool – currently has 2 older horses and would like to add a 3rd horse that is an actual riding horse. Mol – would like to see an animal unit limit set, something like ½ A.U. per acre. Pool agreed that a limit could be added. Mol – the presented lines make sense with the reasoning.

- F. Neumann – concerns were addressed and would like to see a limit to animal units set at 10 or less. Pool – has 12 chickens and the plan with horses is okay with the 10 A.U. limit. Neumann – questioned if an entitlement would be transferring. Rhineberger – there is no entitlement transfer. Staff will be able to process the division with an administrative order. Hallstrom – the purchase agreement states no building entitlement will be transferred. Neumann – concerns were addressed.
- G. Aarestad stated that normally looking at the long-range Land Use Plan taking tillable out of production is frowned on. Here the Board is considering this request based on the condition and type of soils, not being irrigated, location of pond and road, and, as presented, is more conducive to larger equipment.
- H. Vick – what is the building difference between the 10 and 11 acres. Rhineberger explained the Ordinance reads, at exactly 10 acres or more there is no difference in what is allowed for accessory structures. The cut off for limits on accessory structures starts at 9.99 acres and under. The building lot coverage is 15% of the parcel’s square footage. Vick – idea is to limit the number of animals and accessory building be limited to be more in line with what is set for 9.99-acres. Rhineberger – a condition can be added for animal units and building size. Setting the limit with a specific animal unit or a building size is a better option than setting the limited based on the acreage. Questioned legal counsel if the Board can add a condition that is more restrictive than the limit set by the Ordinance. Kryzer stated the Board can put a reasonable condition if it has a connection to the request.
- I. Mol – makes sense for the lot line to run down to 90th Street and is squared off. Does not want to limit accessory structures so much that the applicant can’t build a pole shed for storage of cars and toys and a building to house a few horses. Pole sheds are prevalent in the area. Rhineberger – currently have 3,200 sq. ft. of accessory buildings. Mol – with a limit of 4,000 sq. ft. that only allows an additional 800 sq. feet. Rhineberger – this can be a very situational conversation, there could be times when a limit might make sense. Vick – concern is next owner has ability to build a huge shed and rent it out for storage or uses for business. Mol – if a new owner comes in and wants to run a business, they will have to go before the Planning Commission for a Conditional Use Permit.
- J. Kryzer - there is a setback regulation when over 10 animal units are present, with relationship to neighbors. The matter will be addressed under the current provisions in the Ordinance.
- K. Mol motioned to approve a variance as regulated in Section 155.026(E)(2) & 155.048(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to attach roughly 8 acres, from the Schultz parcel (Tax # 217-000-154300) to an existing 3.53-acre residential lot of the Pool parcel (Tax # 217-000-154303). Subject to the following conditions: 1) restricted to less than 10 animal units; and 2) Subject to survey and combination of parcels with an Administrative Order or tax parcel combine form. Seconded by Neumann.

VOTE: CARRIED UNANIMOUSLY

3. **ANDREW T. LARSON** – New Item

LOCATION: 1922 12TH STREET SW – Lot 5, Block 1, Deer Lake Orchard, Section 11, Township 119, Range 26, Wright County, Minnesota. (Marysville Twp.) Tax #211-030-001050 Property Owner: Michelle Lyn Larson Revocable Living Trust

Requests a variance of Section 155.026, 155.047 & 155.090 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to build an 18' x 30' dwelling addition approximately 12' away from the absorption area of the sewer system.

Present: Andrew Larson

- A. Rhineberger displayed the request showing location of the current home, septic system, and proposed addition. The applicant has been working with staff on the proposal to determine where the existing septic treatment area is. It is difficult to know exactly where the absorption area ends, a buffer was added into the distance. The aerial shows roughly 15 ft. with the feeling being that the setback will be anywhere between 12 ft. and 15 ft., no farther than 15 feet. The addition would be off the back, near the slope, with a full basement and story above. Township did approve. Neighbor, Greg Buttenhoff responded that they have no problem with the project.
- B. Larson had no additional comments.
- C. Mol – did not see on the plan if there is a way to keep the water coming off the addition roof away from the absorption area. Does not want to see water added to the treatment area. Larson – roof will slope in a way not to shed water towards the mound plus there will be gutters. Mol – does the ground contour so water will flow back towards the treatment area? Larson – the water can be managed to drain away from the septic. Mol – one concern is how water will flow. Would like to see a plan presented to staff with the permit application that shows how water will be directed away from the absorption area.
- D. Neumann – same concern with water flowing towards absorption area. The Board has approved other septic systems less than the 20 ft. required, so the 12-15 feet is adequate. If the drainage is addressed than he is fine with the plans.
- E. Vick, Jones and Aarestad agreed with the comments made by the other Board members.
- F. Rhineberger displayed the topography map while going into detail of how runoff will flow. The house is built on a high spot. Existing topography and guttering should prevent water from flowing around the treatment area.
- G. Vick motioned to approve a variance, as submitted, to build an 18' x 30' dwelling addition approximately 12' away from the absorption area of the sewer system. Subject to the following condition: water must be diverted away from the sewer system absorption area. Seconded by Mol.

VOTE: CARRIED UNANIMOUSLY

4. **MITCH THEISEN**- New Item

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 displayed the site map. The parcel in question is 80 acres, with the property owner owning several parcels for a total of roughly 345 acres around the property. All of the property involved has limited road frontage. There is a small area of designated township road and an approved cartway along the north end of the parcel in question. The road frontage for this 80-acre parcel is the 33' from the Township right-of-way plus additional from cartway. This is an unimproved or maintained cartway that likely could not be built to full extent due to floodplain and wetlands. The request is to divide off the existing homesite on 20 acres, which exceeds 10-acres max. Division does not have the required 300 feet road frontage unless the cartway is included. The land is not tillable farmland. The remainder is a gravel pit that has been mined or reclaimed and pasture. Township did approve the proposed division.
- B. Theisen – this is a family farm that has been handed down. Plan is for his mother to stay in the current homesite, and he will build a home for his family on the remainder. There is no intent to sell. The plan is to add their house and have some horses.
- C. Otto stated this is a unique situation with no road frontage but there is an accepted unimproved cartway. There is frontage on a road, but it really isn't considered a road. The Township does maintain and travel down the west side of the property, past the farmstead, using the area of the mine entrance to turn around. They are maintaining an area that is not part of a township road. A 10-acre parcel doesn't work with the layout of the existing farm site and required setbacks. Originally looked at using the existing fences lines, which worked out to be 16-acres and didn't go far enough south to maintain 100' setbacks from the current buildings housing livestock. Decided that it made sense at that point to square up the lot and meet all required setbacks. Rhineberger questioned if the Township has been approached about changing the westside cartway to a township road. They already use the road for turning around their equipment and with the equipment that runs on there for the mine the road is probably already built close to Township standards. Theisen – does not want to add burden to the Township when he has the means and equipment to maintain it. If needed for this division, he doesn't object to asking. Rhineberger – the issue is if intend to build on the rest of the acreage, this proposed division takes up all available road frontage. The actual legal allowable access to the remainder of the property on a recognized unmaintained cartway. From a zoning perspective, a cartway can be a situation that doesn't fit into what is typically allowed. Mol questioned if the Township plows to the gravel pit entrance and turns around. Theisen confirmed that they do plow and turn around there. Mol – the point is that if the Township maintains, turns around or does

anything to the road then they possibly already own the road. Technically because of their use of the road it might already be a Township road. Otto – not being an Attorney or knowing the full extent of the law, he can't say what the situation is. There could be some agreement related to being allowed to turn around. Plan is to keep a 33 ft. easement along "Parcel A" to the north as well as on the west, which will keep future options open. Realize Planning and Zoning can't recognize this strip as legal access. The family has chosen to include this strip for potential future options. Theisen – all surrounding area is in the family, confident that the road being used to access the mine will always be maintained. Rhineberger – the problem is that by the Ordinance definition access to the property, for a dwelling site, must be within the front of the property. In this case it is a cartway that can't be built up to a road. In essence approval would be given on an easement, which is not allowed by Ordinance.

- D. Neumann – cartway issue is troublesome. Concern is that in the future, properties are broken up create landlocked situations. Without the cartway passable or feasible, it is an issue. This might be a piece of property that needs to stay as a whole. Otto – currently it is roughly 5 parcels. Rhineberger – 5 parcels with many entitlements. Neumann- how will you get to them without access. Understands the square off for the 20 acres but troublesome with access problems that are present. Would like to hear what others have to say before additional comment.
- E. Vick - questioned if the Township reviewed. Rhineberger – the division was approved. Vick – difficulty allowing a cartway, should at least be built to standards for emergency vehicles. Theisen – how far would the cartway need to be improved? Rhineberger – to provide whatever access is needed. By only improving the cartway 300' would not get the access needed off the 20 acres. One option would be to add additional cartway to the west. Possibility of having the Township accept the cartway on the west, that they are currently using to turn around. The cartway that exists gives the northern parcels access, so that should not be removed. The cartway on the north line is not improved and goes into an area that is wetland and potentially part of the flood plain. Instead of going with an access easement on the west line, address the cartway with the Township and use that as road access. Kryzer suggested the applicant speak with an attorney regarding the road the Township has been using and maintaining. Theisen – does not want to inconvenience the Township, they are people that farm for them and have been in the area for generations. Does not want to cause trouble. Kryzer – to build a road through wetland will be very expensive. Wetland credits are about \$96,000 an acre. Rhineberger – makes sense to build up the road on the west, used by the mine, as it is probably already built close to what the Township requires. Otto – history with Marysville Township is they don't like to take over roads. In this situation maybe they already have by maintaining the road. Rhineberger – with a cartways there have been agreements where the Township doesn't take over the cartway or commit to maintenance. Their part is the approval of the cartway that is built to their road specifications and from that point on is privately maintained. A similar situation came up in Clearwater Township. The Township did not construct or maintain the cartway, they simply agreed if built to their standard's the cartway would be considered public frontage. This would allow for future discussion if additional development were wanted. If adopted, cartways are considered legal road frontage. Vick – cartway to the north could be extended to the end of that property line. Rhineberger – it is all wetland and a creek, so it does not make sense to extend.

- F. Jones – concern is the cartway and feels the applicant should work with the Township on access with the road that is already being used.
- G. Mol – same concerns as mentioned, also the access with this size of property. There is a lot of lowlands but there are also multiple building entitlements, which mean potentially 4-5 more houses, that would need road access. Family members could get along today but the Board realizes that situations, conflicts, and disagreements do come up when dividing the family farm. The Board needs to look at the situation in a way that prevents issues arising in the future. Concern is property access and the legal access for the remaining properties. Clementa Ave. just touches a corner of a parcel, but that area is very low and wet. Would like to see if something can be worked out with the cartways and the Township. With Clearwater Township, the cartway was addressed differently than a standard road request. Normal road standards state roads need to be tarred but the Township required the cartway be able to handle emergency vehicles, buses, and sanitation trucks. Rhineberger – the road currently used for the mine and turn around for the Township is already handling heavy equipment on a routine basis.
- H. Otto questioned how the Board would feel if west 33' strip was included with the large parcel versus the 20-acre parcel. Kryzer – “Parcel A” would become landlock. Otto – still would have north access. Kryzer – not if that road or cartway isn't built and accepted by the Township. Otto – can't force the Township to accept a cartway. If they don't want to accept the cartway is there an alternate solution? Kryzer suggested visiting with an attorney on the west cartway. Vick – build to the Township standard and privately maintain. Otto – even if built to their standards they still must accept it as a cartway to be legally recognized as a road. Concern for the Township is no guarantee who will maintain the road now and, in the future, with a change in ownership. Maintenance agreements can be worked out legally. At times it seems that a Township doesn't understand that part of the process and are hesitant with those types of agreements.
- I. Aarestad – concern is access to those future entitlements and potential new building sites. With the floodplain and wetlands, a north road doesn't seem to be a viable option. Feels getting that west cartway upgraded to handle emergency vehicles and approved is the way to go. Creating an agreement with the Township will prevent future landlock parcels. Otto – the west road is in a situation that nothing needs to be improved. Aarestad – the Township needs to sign off and accept the cartway as a road. Otto – hearing the Board indicate the next step is to go back to the Township regarding the west road and come back to the Board. If they agree to accepting the cartway, as discussed, it sounds like the Board is okay moving forward. More discussion will be needed if the west cartway is not accepted. Mol – would suggest continuing to the next meeting. Rhineberger – there are two proposals for the Township, alter, adjust or extend the cartway to the west line, and/or an agreement for the improvement of the existing northern cartway with and access on the west side. Easements are a concern because there is a life span and expire if they are not used. Not having that cartway built to a standard is troublesome. Mol – the road is already there; they are turning around beyond the property that is being looked at being divided off. Run that cartway down to the turnaround. Any development can be dealt with later. Kryzer questioned how long the Township has plowed and used the road. Theisen – Township didn't build the road, but they have used and plowed it for at least 30 years. Kryzer – recommended seeking the opinion of an attorney. Mol – if the road is built and there, then the Township can do soil borings and verify it meets their specifications. Takes some time and money for the applicant but a similar situation was worked through in

Clearwater Township. Theisen – did not want to put extra burden on the Township. Is hearing what the Board is saying and suggesting.

- J. Aarestad question the applicant if there would be enough time to meet with the Township prior to coming back before the Board in March. Theisen agreed there would be time to talk with the Township before the next meeting.
- K. Mol moved to continue the hearing to March 18, 2022, to allow time for the applicant to meet with the Township regarding the cartway. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **CHAD BERKENES** – New Item

LOCATION: xxxx County Road 33 SE – The West 328.37 feet of the West Half of the Northeast Quarter of the Southwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 3, Township 119, Range 25, Wright County, MN (Rockford Twp.)
Tax # 215-100-033100 & -033400 Property Owners: Berkenes & LaBute

Requests a variance as regulated in Section 155.026 & 155.048(G)(4) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to attach 10 acres of primarily wetland, from the LaBute parcel (tax # 215-100-33400) to an existing 10-acre residential lot (Berkenes tax # 215-100-033100).

Present: Chad Berkenes

- A. Rhineberger displayed the air photo showing the location of the parcels in question. A site plan shows the proposed 10-acre division to be added to the existing 10-acre residential lot. The applicant wishes to purchase 10 acres of wetland that lies east of his property. The proposed addition is entirely cattail so there is no tillable involved, just the overage of acreage. Township did approve. The property owner, selling the 10-acres, did give his approval.
- B. Berkenes – the parcel is unusable wetland and would he like to keep it that way.
- C. Vick - acknowledged the Township approved and the parties involved are aware the land is all wetlands. Animal units should remain at less than 10. With 20 acres there could be potential for a lot of animals but with the wetlands, that shouldn't be a problem. Jones agreed with Vick regarding the animal units.
- D. Mol – wetlands are protected and are supposed to stay wetlands. In this area there must be a water source. Berkenes – water slowly flows south to north. Mol questioned the desire to own 10 acres of wetland. Is it to get larger acreage for and an additional entitlement? At 20 acres there is potential for larger buildings and more animals. Even though the division in question is wetland there is higher ground on the existing 10-acre parcel. Most people that own swamp feel it is a burden and most don't choose to purchase swampland. What is the motivation to get 10 acres turned into twenty? Berkenes –the purchase agreement was to buy the original 10-acres, for the house site, and purchase the additional 10 acres of wetland. Recognizes that wetlands stay wetlands. Built a driveway for the house, it was expensive and a lot of paperwork. The appeal of purchasing the wetlands is knowing that they will stay that way forever and he has a view of wetlands from his home. They have no intentions of anything more than having the land that borders their property stay natural. Mol – taking 10 acres and turning it into 20 puts the property in a different classification. Vick – no difference on building limit between 10 and 20 acres. Mol – building size is a concern. Rhineberger – per the Ordinance, right now, the 10 acres can have over 4,000 sq. ft. of accessory structures. There is a building coverage limit of 15%, which would be double the limit at the 20 acres. The original 10 acres is not all high ground, so there is a natural limit. The Board could limit the accessory buildings based on high ground and usable space. Set limit based on acreage of the original 10 acres, high ground area or not address at all and leave at the full 20 acres. Mol – those are the options he is wanting to address. Rhineberger –with 10 acres the property is not limited

to 4,000 sq. ft. In most cases so much unusable acreage isn't present. If not conditioned there is potential that 3 acres of the 6 acres that are high ground could be used up with accessory buildings.

- E. Neumann – no problem with the purchase. Setting a limit on the size of accessory structures and animal units is acceptable with the limited high ground.
- F. Aarestad – agree there should be a limit on building structures with the amount of wetland not conducive to large buildings.
- G. Rhineberger – before there is a motion, discussion should be had on the type of limitation. Mol asked for a calculation of 10,000 sq. ft. building limit. With 10 animal units a person would still have room for an animal building as well as a standard storage building for toys and cars. Even at 10 acres he is allowed over the 4,000 sq. ft. Rhineberger – 15% building coverage of 10 acres would be roughly 46,000 sq. ft. of buildings. Many times, with lakeshore, the Board does set a percentage limit condition. Mol – 15% at the 6 or 7 acres seems fair. Rhineberger – the current homesite has about 6 acres above wetland, which would be a limit of about 36,000 sq. ft. of roofed surfaces. Berkenes questioned if this limit is all buildings or just the accessory buildings. Rhineberger – all roof structures. Applying a limit based on what is dry and usable makes sense. Berkenes – intention is to have one house and one accessory building. Mol – staying within 15% on what is above high ground is easier for staff to manage.
- H. Motion made by Vick to approve a variance as regulated in Section 155.026 & 155.048(G)(4) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to attach 10 acres of primarily wetland, from the LaBute parcel (tax # 215-100-33400) to an existing 10-acre residential lot (Berkenes tax # 215-100-033100). Subject to the following conditions: 1) building limited to 15% of 6 acres; in-line with the amount of usable property; and 2) Restricted to less than 10 animal units. Seconded by Mol.

VOTE: CARRIED UNANIMOUSLY

6. **KOLAN HANCE** – New Item

LOCATION: 11918 25TH Street NW – Part of the SW 1/4 of NW 1/4 Section 19, Township 120, Range 27, Wright County, MN (Albion Twp.) Tax # 201-000-192301, -192303, -191201
Property Owner: Rebecca A. Hance and Kole Hance, KAPSEG Inc.

Requests variance according to Section 155.026(E)02,155.048(G), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow division of approximately 1.32 acres of prime tillable (Tax #201-000-191201) and 1.38 acres of prime tillable (Tax #201-000-192303) for a total of 2.7 acres to be combined with the applicant's 2.74-acre homesite (Tax #201-000-192301).

Present: Kolan & Becky Hance

- A. Rhineberger reviewed the site plan with proposed property lines. The property is a 2.74-acre homestead in Albion Township, surrounded by 85 acres of tillable land. The request is to add approximately 3.14 acres of property to the 2.74 acres that currently exists. Total tillable farmland would exceed the 2.5-acre limitation. Spent considerable time working with the applicant on mapping out what would work for the farmer and trying to stay under the allowed 2.5 acres. Keeping lines straight and the best option for the farmer and equipment came in at anywhere from 2.51 – 2.6 acres. Although acreage is just over the allowed limit, the approval could not be done administratively. The Township did approve. The owner of the 85 acres, Tom Segner with Kapseg Inc., did state it is difficult to turn equipment around in the areas that would be going to the applicant.
- B. K. Hance – have been asking for a while now to purchase property. Besides having trouble turning around there is also access issues. The areas in question stay pretty wet. Segner doesn't have legal access from the end of the township road on the east side. The west side has access that stays wet, recently Segner added another access off Mitchell Ave. He would like to add hay to the fields.
- C. John Uecker – Albion Township Chairman. The approval came through with only 2 votes, Bob Neumann abstained. The discussion was difficult and if he had a chance to vote over, he would vote against the request. Cannot see the reason to allow this division. The 2.7 acres is the existing lot now with the house. What is the reason to add the prime tillable land? The only reason given was Segner doesn't want to turn around in the corners. Comment was made by the applicant that they would add hay to the area, why is it okay to turn around for one person but not another. Also, told that this could have been done administratively kept at the 2.5 tillable acres. Questioned how this works on an existing farmstead. Rhineberger – on an entitlement division, new or existing, 10 acres with no more than 2.5 prime tillable. Uecker – the Township road, that abuts these properties, is a concern with no legal turn around. The road goes 640 ft and then ends at the Benson farm site. Township equipment backs into the Segner field to turn around. The road cannot be vacated because it would land lock the Benson farmstead. The Township used to go onto the farm site and turn around but now there is a tremendous amount of old equipment, and the Township will no longer turn around there. Segner has been running this land for over 30 years and now, suddenly, his equipment can't turn around on the property. Would like to go back to the drawing board and discuss the option of the Township obtaining an area to turn around. Questioned the applicant if there is a business run on site. K. Hance stated there is no business on site. Uecker asked the applicant if the reason of

purchasing more land is about building a larger building or shop. K. Hance – purpose is not to build a larger building. The turnaround access is something that can be discussed with the Township. Not sure what can be done, but is willing to discuss and hopefully find a resolution. The conversation might need to include the Bensons.

- D. Jones – wasn't aware that the Township had a problem with the road. Would agree maybe they need to pause and allow the Township to get some clarification on the turnaround or see if there are some options that could alleviate the problem. Asked if the Township maintains the road. K. Hance confirmed the road is plowed by the Township and they turn around in a field or what could be considered a minimal approach. Uecker – when the Bensons property was an operating dairy farm, drivers would turn around up in the farm lot area. Because of the amount of equipment on the lot they no longer go onto the property. Jones questioned how the Township can maintain a road but not have an official turn around. Might be a good idea to go look at the location and obtain a turnaround. Kryzer – the road access and the Township wanting a turnaround is not relevant to the discussion or decision related to the applicant wanting to exceed the 2.5 tillable acre requirement. This road issue is not part of the discussion before the Board. Township and property owners should get together and discuss.
- E. Mol – agrees with what was said by council. The Board is here to look at that tillable acreage over the allowed 2.5 acres. The road and turnaround concerns do not directly relate to this request. Feels that if the hearing is continued it would be holding the applicant hostage regarding an item that is not relevant to the request. The applicant has lived at this location for years and is aware of how the Township maintains and turns around. In the end the plowing of the road benefits applicant and it is in their best interest to come to an understanding and find a solution. Recommend discussion with the Township but not part of this process. Concerned with animal units, with roughly 5 acres, which would be a limit of $\frac{1}{2}$ animal unit per acre, with a max of 3. This would be reasonable to what has been done with past requests. Rhineberger – the parcel size will set that as the limit, the Board can add a condition or not. Mol – the Ordinance will prevent a large amount of roof coverage, so nothing too big can be built. In the past the Board has approved similar circumstances and feels this is a request he could go along with.
- F. Neumann – leaning towards continuing decision, allow Albion Township to discuss the turnaround with involved property owners. During the process the Township could potentially purchase some area of land for a dedicated and owned turn around. Currently the owners are okay with the way Township equipment has turned around but, in the future, it might not be a situation a new owner is comfortable with. Wondering if a decision from the Board would put the Township in a bad spot.
- G. Vick - questioned if the east side has buildings or machines that are owned by the neighbor and crossing the property line. K. Hance acknowledged it is a mess with machines and animals. Right now, the Bensons have equipment parked across the line and it is a point of contention with Segner. Snow is pushed over the line and equipment sit on or over the line, which makes the land difficult to farm. Vick – is there a rush to get the land purchased? K. Hance – regarding the neighbors, they are fine with what is happening and would rather not address the issue at this time. Segner did indicate he would like to know what is happening by early spring. The purchase would dictate who plants.

- H. Mol – concerned about continuing because of the road issue when the request is not related to the road or turnaround. With the change in ownership, maybe now is the time for the Township to address the issue. K. Hance – agrees a discussion can be had regarding an official turn around. Mol – no matter what happens with the Board this discussion would be between the Township and applicant or other property owners. Rhineberger – the Board needs to determine if the justification for additional land is related to the status of the Township road. The road condition existed before the request and is not created by the request. The turnaround situation won't change based on the Board's decision. Vick – sounds like originally the Township approved but now with additional information this is a request they might not be okay with. Maybe continuing the discussion to allow the neighbors and Township to discuss is the direction the Board should go. Rhineberger – when the Township submits approval, and a Board member comes before the Board disagreeing with what was approved, puts the Board and staff in a difficult situation. Mol – this is a lot line adjustment over the 2.5 acres of prime tillable. The applicant could have lowered the acreage and the request would have been processed without the input from Township or the Board. This request doesn't pertain to the road or turnaround. Understands where the Township is coming from and the concern but related to this request, it is not up to this Board to consider what is happening with the road. Vick – okay with the request but concern is if this is the time to remedy the turnaround issue before the property changes hands.
- I. Aarestad – this is a lot line issue and a modest one. If the applicant withdrew the request and adjusted the line, just a little, there wouldn't be this discussion. If anything, this request opened the door for a conversation to be had with the Township and property owners. Does not feel that holding up the request for another month is necessary when the road issue is not directly related to this request.
- J. Mol made motion to approve a variance according to Section 155.026(E)02, 155.048(G), Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow division of approximately 1.32 acres of prime tillable (Tax #201-000-191201) and 1.38 acres of prime tillable (Tax #201-000-192303) for a total of 2.7 acres to be combined with the applicant's 2.74-acre homesite (Tax #201-000-192301). Subject to the following conditions: 1) the property is restricted to 3 animal units; and 2) Subject to survey and combination of parcels with an Administrative Order or tax parcel combine form, completed by December 31, 2022. Seconded by Jones.

VOTE: CARRIED UNANIMOUSLY

7. **ROBB R. KIRKPATRICK** – New Item

LOCATION: 5166 20th Street NE – part of the S ½ of the SW ¼, Section 24, Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-243302 & -243301 Property Owner: Kirkpatrick, Schleif & Schmidt

Requests a variance, originally granted 12/07/2018, which expired, of Section 155.026, 155.049(F)(2) & 155.049(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to add approximately 23 acres of the Schmidt/Schleif property (Tax # 202-000-243302) to the applicant's four-acre home site (Tax # 202-000-243301). Also, allow an “after-the fact” variance for an 18’ x 34’ lean-to on an AG building, 101 ft. to centerline of County Road 35. Variance to further exceed 3,200 sq. ft. accessory structure limit may also be needed, depending on whether the proposed lot size variance is granted.

Present: Robb Kirkpatrick

- A. Rhineberger displayed the site plan. In 2018 the Board granted a variance for an after-the-fact lean-to added onto a barn of a fairly small lot. The variances were needed for the highway setback, as well as the size buildings. A way to remedy the situation was for the property owner to purchase additional land. The 2018 approval was subject to a tax parcel combine form or file an Administrative Order with the County. Variances expire after 3 years, which is what happened in this case. The applicant recently purchased the property under a contract for deed. A contract for deed does not allow the parcels to be combined and also does not allow for the Administrative Order to be filed. The fee title owner must be exactly the same for either of these to be completed. With a contract for deed, the fee owner is still the original property owner until the contract for deed is satisfied. With the tax parcels not being combined, the order of the Board has not been satisfied, which also invalidates the setback variance and overage on accessories. The Township did not respond.
- B. Kirkpatrick stated that he did go to the Township, and they were in favor. Board member Don Schmitt had said he was going to make a call to the County. Is the Board looking at a full new variance? Rhineberger – the notice is for a full new variance. The variance granted in 2018 expired. Technically the property is in violation of accessory building overage. The property combination did not occur, Staff can therefore only look at the parcel with the accessory structures as 4 acres. In technical terms the existing lean-to is in violation of the Ordinance because the variance was never satisfied. The building overage was allowed with the condition that the additional acreage was going to be purchased and combined with the 4 acres. Kirkpatrick – the application he submitted was for an amendment because the variance was already approved. Rhineberger – the variance was approved with a condition that was not satisfied and cannot be done because of how the ownership was completed. It is actually more of an extension of a variance, but really it would be a re-application of the same variance. Kirkpatrick – the process of making the purchase was a long and laborious process. Kryzer questioned when the contract for deed will be satisfied. Kirkpatrick – 3 months into a 7-year contract. Kryzer stated that 7 years is a long time to extend a variance. Kirkpatrick – is there a reason there can't be 2 separate parcel ID's? Kryzer – they are under different ownership. If under same ownership they could be combined. Kirkpatrick – if he wasn't looking for a building variance but simply purchased the additional 22 acres. Rhineberger – in this case to split the 22 acres would

have had to come to the Board. The Board's reception to making a 22-acre division as a restricted parcel is not common practice. Generally, the Board does not like to see restricted parcels sitting separate from the neighboring residential parcel. In this case the Board would have also had to approve the building overage, or the lean-to would need to be removed. Kirkpatrick - part of the earlier discussion was the 4-acre split 27 years ago shouldn't have happened because the roof coverage was already exceeding the limit for 4 acres. Rhineberger – exceptions are given to farmsteads regarding accessory rules. It was adding the additional building onto what was already over the limit. Any new structures would require a variance. Dairy farms have 10,000 sq. ft. of out buildings and it is impossible to draw lot lines between the buildings to divide off the house. In these cases, the farmstead is divided off with rules related to the accessory buildings. No new or expansion is allowed until the accessory buildings are brought into compliance. Kirkpatrick – a division is allowed even if the buildings are over the allowed limit. Rhineberger – yes, the division is allowed with specific conditions placed on orders which stated no new buildings or expansions are allowed until the buildings come into compliance and meet the allowed accessory limit.

- C. Kryzer – a 7-year contract is a long time for the Board to allow the property to come into compliance. Questioned if the applicant is planning to finance soon or go the full 7 years. Kirkpatrick – going with the 7 years gives seller a tax break. Kryzer – there is an ability to satisfy the contract tomorrow. Kirkpatrick - satisfying before the 7 years would go against the agreement made with the seller. Kryzer – at this point in time the Board can see the possibility that the contract for deed could be satisfied within 3 years. Suggests coming to the Board before the 3-year expiration, not after the variance expires. Does not see any bad faith on the part of the applicant.
- D. Rhineberger – when dealing with multiple parcels, contract for deeds can be difficult. A contract for deed is not a situation staff likes to see when it comes to 2 parcels required to be owned in common or should be combined. Situations come up where one parcel is owned under a mortgage and the other is purchased through a contract for deed. What can happen is the mortgage is foreclosed, leaving the contract for deed parcel off on its own. There isn't the ability to require that land purchased under contract get rolled back into where it came from so it just sits there on its own. There are situations in the County where a parcel was to stay owned with a homesite that is now land locked or not buildable and there is nothing that legally can be done to address the situation.
- E. Mol – remembers the request from 3 years ago and had concerns at that time but voted for approval. Willing to renew with the 3 years expiration date. The applicant can either satisfy the contract for deed before the 3 years is up or come back before the Board requesting another extension. Giving 7 years is a long time when things can change at any time. Rhineberger – giving a 7-year deadline would not put the Board in a good position. Mol – willing to renew with the same motion that was granted 3 years ago. If needed the applicant can come back before the 3 years are up.
- F. Neumann stated he does agree with the comments made by Board member Mol. Comfortable granting the request with a 3-year expiration. Maybe in 2 1/2 years the applicant can approach the seller about satisfying the contract.
- G. Vick – agrees with the 3 years limit and requirement to come back to the Board if additional time is needed. Jones – agrees with the 3 years as well.

- H. Aarestad – favor of the 3 years that come with a standard variance. Unique and maybe not ideal situation but this covers the Board as far as not stretching out the process.
- I. Mol motioned to extend the variance granted on 12/07/2018, for an additional 3 years, with the same conditions applying, which are, subject to survey and combine parcels under one tax number or complete an Administrative Order. Seconded by Vick.

DISCUSSION: Neumann – if closer to the maturity date or pays off the contract would the applicant simply notify Staff? Rhineberger – yes, at that time staff will get documents ready to for the parcel combine or draft the Administrative Order. Mol – addressing the applicant, the Board members in 3 years could be different and the outcome might not be the same. Kirkpatrick questioned how this decision affect the use of the property. Rhineberger – it does not. Kirkpatrick – am I seen as owning 26 acres or 4 acres. Rhineberger - until the contract for deed is satisfied and the parcels are combined you are looked at owning 4 acres, with 22 acres under contract. As it stands, no more buildings could be built on the 4 acres, but you could build on the 22 acres.

VOTE: CARRIED UNANIMOUSLY

Meeting adjourned at 10:45 a.m.

Respectfully submitted,

Barry Rhineberger
Planning & Zoning Administrator

BR:sld

Cc: Board of Adjustment
Applicants/Owners
Twp. Clerks