

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: October 13, 2023

MINUTES

The Wright County Board of Adjustment met on Friday, October 13, 2023, in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Paul Aarestad, called the meeting to order at 8:30 a.m. with Board members present: Paul Aarestad, Dan Mol, John Jones, Dan Vick & Bob Neumann. Representing the Planning & Zoning Office was Aaron Ogle, Planner. Greg Kryzer, Assistant County Attorney, legal counsel arrived to meeting at 8:45 a.m.

ACTION ON MINUTES FOR THE SEPTEMBER 15, 2023 MEETING

On a motion by Neumann, seconded by Mol, all voted to approve the minutes for the September 15, meeting as printed.

1. **DIRK WESTVEER** – continued from 7/14/2023, 8/25/2023, & 9/15/2023

LOCATION: 10601 & xxxx Amery Ave NW – Wildwood Terrance Lot 011 and Tract H, Registered Land Survey No. 45 in Section 12, Township 121, Range 26, Wright County, MN (Lake Ida – Silver Creek Twp.) Tax #216-028-000110 & 216-143-000080. Property Owners: Dirk J Westveer & Barbara S Olson

REQUEST: Variance as regulated in Section 155.026, 155.049(F)(3), 155.057(E)(1), & 155.006 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct an addition to the existing home which is located within the shoreland and side yard setback. The proposed building and impervious surface coverage would be over the maximums allowed.

No representative present.

A. Ogle – late last night an email was received from the applicant requesting to withdraw without prejudice.

B. Motion made by Mol to dismiss the petition at the applicant's request. Seconded by Jones.

VOTE: CARRIED UNANIMOUSLY

2. **TOM IGOU** – continued from 9/15/2023

LOCATION: 10591 Montgomery Avenue NW – A tract of land lying in Lot “A” of Gov’t Lot 2, Section 12, Township 121, Range 28, Wright County, Minnesota. (Clearwater Lake – Southside Twp.) Tax #217-000-121306
Property owner: Deena M Igou Tr

REQUEST: Variance as regulated in section 155.026 and 155.057(E)(1) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow expansion of a non-conforming structure for the conversion of an existing deck to a 3-season porch.

Present: Tom Igou

- A. Ogle – with site plan displayed the request was reviewed. The request is to construct a 10 ft. x 32 ft. 3-season porch and a 5 ft. x 10 ft. covered porch over the existing deck that is 64.7 ft. from the Ordinary High-Water of the lake was continued from the September 15th meeting. The applicant has updated their original plans to reduce the impervious surface coverage under the 25% maximum allowed. A variance is required to convert the existing deck because it is located 64.7 ft. from the OHW of Clearwater Lake whereas 75 ft. is required. The property is 0.34 acres and zoned Urban/Rural Transition and located on Clearwater Lake which is a general development lake in Southside Township. The Township approved of the request as there is no additional impervious surface coverage and the new porch will not encroach on the lake any further.
- B. Igou – concern at previous meeting was potential future change of use of the area so he did change the building plans, using 2x4 framing along with no insulation.
- C. No public comment.
- D. Mol – many concerns addressed but still concerned with the use as a full season area. The new plans under 25% impervious coverage is an improvement but this is still an expansion towards the lake. Historically, this Board has not allowed closer than 65 ft. to the lake. The 64.7 ft. is close but he has concerns with a 3-season porch expansion lakeside.
- E. Vick – satisfied with plan and the decrease in impervious coverage. Agree, he would like to ensure that the 3-season area isn’t remodeled and moved into.
- F. Jones – granted the lumber used has been changed but the next owner could redo that work and create an area this Board was trying to prevent. Still has some concerns.
- G. Neumann – feels the applicant listened to what was recommended by the Board at the last meeting and made the changes and did what was asked.
- H. Aarestad – shares some of the same thoughts. This is an expansion towards the lake and is very close to that limit of 65 ft. Feels changes were made as asked by this Board and what is being requested is reasonable.
- I. Neumann moved to approve the request to construct a 10 ft. x 32 ft. 3-season porch and a 5 ft. x 10 ft. covered porch over the existing deck that is 64.7 ft. from the Ordinary High Water of the lake. It was **CONDITIONED** that the impervious surface does not exceed 25% and that the 3-season porch would not be allowed to be converted into a 4-season area. The site plan/survey is noted as Exhibit "A" and the updated building plans are noted as Exhibit "B". Seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

3. **JAMES LATOUR** – continued from 9/15/2023

LOCATION: 13841 102ND St NW – Lot 13, Block 2, and part of Lot 12, Block 2, Spring Park according to plat of record, Section 11, Township 121, Range 28, Wright County, Minnesota. (Lake Augusta – Southside Twp.) Tax #217-054-002130 Property Owner: LATROUR LIVTR

REQUEST: Variance as regulated in section 155.003(B)(1), 155.026, 155.049(C)(5), 155.049(F)(2) & 155.057(E)(1) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a 1,260 sq. ft. accessory building to be 32 ft. from the centerline of a township road and 43.7 ft. from Lake Augusta.

Present: James Latour

- A. Ogle displayed the revised site plan and building plans as he reviewed the request. The request was continued from the September 15th meeting so the applicant could reassess the proposed size of building and distance to property lines. The updated request is for a 26 ft. x 34 ft. (884 sq. ft.) detached garage that would be 32 ft. from the centerline of the road and 51.7 ft. from the Ordinary High-Water of the lake. The lowest floor elevation would be 998.5 ft. (NAVD88). A variance is required as the building would be located within the 100 ft. shoreland building setback and 65 ft. road setback. The building would also be over the 800 sq. ft. maximum size for a single detached building. The 0.32 acre property is zoned Urban/Rural Transition and located on Lake Augusta which is a recreational development lake in Southside Township. The Township approved of the request because the existing cabin is at the same setback and the lot coverage is under the 25% allowed. Neighbors have concerns with the size of the originally proposed building relative to the lot size, amount of fill needed to obtain required elevation due to floodplain, and possible drainage problems for neighboring properties/road. Ceil Strauss with the MN DNR is comfortable saying the proposed garage area will be outside of the future floodway so the state minimum regulatory flood protection elevation would be 998.5 ft. using the NAVD88 datum. Ceil said the structures floor would either need to be 998.5 ft. in the NAVD88 datum, or if it is less than 500 sq. ft. could be wet floodproof up to the regulatory flood protection elevation.
- B. No comment from Latour or public.
- C. Vick – last meeting his comment was he'd be okay with 832 sq. ft. as it is a common building material size. He is going to stick with the building being 832 sq. ft. and still has concerns with the full bathroom. Feels that a sink and stool would be enough. Latour – asked for full bath as 3 plumbing fixtures are allowed. Ogle – that is true for a building not needing a variance. This Board can set conditions that are reasonably related to the request.
- D. Jones – shares concerns related to plumbing. This Board has been here before when what is approved is not followed and issues occur. Concerned with bathroom.
- E. Neumann – asked to see building at 800 sq. ft. and this size is 10% over that. Questioned the amount of fill that would be added. Latour – not sure, whatever is required to get 998.5 ft. elevation. Neumann asked what will be done to control roof runoff. Latour – plan is to gutter and use drain spouts to direct water. Neumann – what sizes are other sheds in the area? Latour used the displayed Beacon aerial to review neighboring buildings. Neumann – building is almost bigger than the cabin and his concern is how that will look in the neighborhood. This decision will impact the neighborhood and potentially could have others coming in asking for large sheds. He will want to

see a stormwater management plan, is not bothered by the bathroom fixtures, and would like to see building at 800 sq. ft.

- F. Mol stated he has the same concerns with the size and amount of fill. Raising the property could affect the neighbors. He was also one that asked to see the building at 800 sq. ft. and if approved will want a stormwater management plan included. Latour – 24 ft. x 34 ft. is 816 sq. ft. and would allow him to use standard lumber. Mol – his concern is the water runoff creating an issue for the neighbor and is having a hard time finding a practical difficulty.
- G. Aarestad stated he would be okay with the request if a water management plan were included and at that 816 sq. ft. size.
- H. Neumann moved to approve the request for a 24 ft. x 34 ft. (816 sq. ft.) detached garage that would be 32 ft. from the centerline of the road and 51.7 ft. from the Ordinary High-Water of the lake. It was **CONDITIONED**: 1) a stormwater management plan be submitted at the time of building permit application; 2) an as-built survey is submitted showing the lowest floor elevation is at or above 998.5 (NAVD88). Motion seconded by Aarestad.

DISCUSSIOIN: Vick questioned if the full bathroom was to be allowed. Neumann – intent was to allow the full bathroom. Aarestad suggested the toilet be excluded with Latour stating the toilet is needed but the shower or tub can go.

Neumann amended his motion to include the following Condition: there be no tub or shower.

VOTE: CARRIED UNANIMOUSLY

4. **WAYNE SCHMIDT** – New

LOCATION: LOCATION: 16045 62nd St NW – Lot 2, Block 6, Johnson Park 2nd Addition, Section 32, Township 121, Range 28, Wright County, Minnesota. (W. Sylvia – Southside Twp.) Tax #217-029-006020 Property Owner: Wayne J Schmidt & Sandra K Schmidt

REQUEST: Variance as regulated in section 155.026, 155.049(F)(3), and 155.057(E)(1) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow an addition and a deck to the existing home which is within the side yard and shoreland building setback.

Present: Wayne and Sandra Schmidt, Bernie Miller with MSTs

- A. Ogle displayed the proposed site plan and reviewed details of the request. The property is zoned Urban/Rural Transition and located on West Sylvia which is a General Development lake in Southside Township. The property is approximately 0.29 acres. In 2006 the Board approved a 26 ft. x 44 ft. dwelling 38 ft. from the Ordinary High-Water Mark of the lake at the closest point on the condition an existing shed be removed, portions of concrete be removed to bring impervious coverage into compliance, and the home limited to two-bedrooms. A request for an addition to the home was withdrawn in 2022. This request is to construct a 13.5 ft. x 22 ft. (170 sq. ft.) addition and a 172 sq. ft. deck to the existing home. The existing home is 14.4 ft. from the west side yard and the proposed addition would be 38.4 ft. and proposed deck would be 38.3 ft. from the Ordinary High-Water of the lake. Existing impervious surface is 27.5% and the request would bring the total down to 24.5% which is below the 25% maximum allowed. A variance is required as the existing home is 14.4 ft. from the west side yard whereas 15 ft. is required. The proposed addition is 38.4 ft. and the proposed deck is 38.3 ft. from the Ordinary High-Water of the lake whereas 75 ft. is required. The Township approves of the request as presented due to meeting both impervious and building coverage limits.
- B. W. Schmidt – has owned property for over 8 years. Before the Board in 2022 for a similar request. Based on that discussion he chose to withdraw and come back with a revised plan. Over the past year they have taken the opportunity to review the 2022 minutes and really dive deep into the concerns of the Board. When he first purchased the property there was a water runoff issue with 62nd Street that have since been addressed and the problems resolved. This past year a representative of the MN DNR, James Bedell, visited the site and together they worked through improving the lot with water runoff options that better control water and protect the lake. At the last meeting they were over on impervious surface coverage and with this proposal they will be under that required 25%. During the last meeting the home itself was brought up and limitations that might be present with the existing construction. Interior and exterior photos of the home were displayed while W. Schmidt reviewed the existing construction limits that played a role in their proposed building plans. It was noted that the proposed deck will be placed over the existing concrete.
- C. S. Schmidt stated they worked very hard to do the best they could with the lake in mind. This addition will address the care they provide for their young grandson. S. Schmidt went on to explain their grandson is autistic and how the addition will give him the ability to view the lake in a safe environment. W. Schmidt explained the proposed small triangular deck will allow a circular access for their grandson to go in and out of the home.
- D. B. Miller – the first items he addressed with the applicant was the need to lower the building and impervious coverage as well as address the stormwater runoff. With the repairs done to the road the

water issues have drastically improved. James Bedell, with the MN DNR, and a professional landscaper did visit the site and provided suggestions on how to address water runoff. With that work done he feels that 100% of the drainage on the property has been corrected. Proposal is at 38 ft., which is in the shoreline impact zone but the area is all grass and water that runs towards the lake has an opportunity to be absorbed and filtered before it hits the lake. The property sits in a small bay that is protected from wave action. With aerial photos and property photos on display Mr. Miller reviewed the neighboring properties with it being noted the one neighboring home is approximately 20 ft. from the lake and the home on the other side will not have visibility of this proposed addition. The 2006 survey placed the home 15 ft. from the sideline but the home appears to have been turned slightly and even moved back from the lake, which is where the 14 ft. setback comes from. He feels there is practical difficulty present and the applicant has done a lot of work based on what was discussed at the 2022 hearing.

- E. No public comment.
- F. Jones stated he feels that a lot of concerns from the past hearing were addressed and he can go along with the request.
- G. Neumann – the home has existed for 15 years with no need for this addition. He is the newest member on this Board and has never seen a new addition allowed closer than the 65 ft. This issue started with the 2006 Board allowing a house at 38 ft. His feeling is that just because a pervious mistake was made it does not mean they should continue. Does not see a problem with the 14 ft. side setback but the lake setback is a concern. This is a desire and want with a home that has functioned fine for 15 years. Acknowledged there is some hardship but this addition is a desire and he struggles with the request.
- H. Mol – shares some of the same sentiments as member Neumann. Appreciates what was completed and addressed by the applicant. If this house had not been approved at the 38 ft., he would be a hard no on this request. But a past Board approved at 38 ft., other homes are closer to the lake, the view of the lake for others would not be impacted, proposed addition not closer than the already approved 38 ft. and impervious coverage is not being added. With all of that to take into consideration he would like to hear from the other members.
- I. Vick – agrees with what has been said by other members and this Board does tend to stick with a 65 ft. setback to the lake. Feels there is a hardship related to the 38 ft. and that Board might have had their reasons. Okay with the request as presented.
- J. Aarestad – there has been a lot of improvement with water runoff and reduction in impervious surface coverage. This Board looks at each request individually and because of the past approval of 38 ft. and the location of neighboring homes he feels this request would not be setting a precedence.
- K. Vick moved to approve the request as proposed as a 13.5 ft. x 22 ft. (170 sq. ft.) addition 38.4 ft. from the Ordinary High-Water and a 172 sq. ft. deck 38.3 ft. from the Ordinary High-Water of the lake onto an existing home that is 14.4 ft. from the side yard. It was CONDITIONED that a stormwater management plan be submitted at the time of building permit application and that no further additions to the home can be closer to the lake than what was part of this approval. The site plan/survey is noted as Exhibit "A" and building plans "Exhibit B". Motion seconded by Jones.

VOTE: IN FAVOR: Vick, Aarestad, Jones, Mol NAY: Neumann

5. **DAVID ENGER** – continued from 8/25/2023

LOCATION: xxxx 51st St NW – Lot 23 Maynie Point, in Section 05, Township 120, Range 26, Wright County, MN (Maple - Maple Lake Twp.) Tax # 210-020-000230. Property Owners: David & Erin Enger

REQUEST: Requests a variance as regulated in Section 155.026 & 155.049(F)(2) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a storage building within the setback from the centerline of the road.

Present: None

- A. Ogle – the applicant is requesting to withdraw their request without prejudice.
- B. Vick moved to dismiss the petition at the applicant's request. Seconded by Jones.

VOTE: CARRIED UNANIMOUSLY

6. **TODD SMITH** – continued from 9/15/2023

LOCATION: 15858 Greer Ave NW – Fish Lake Shores Lot 10, Block 1, Section 13, Township 122, Range 27, Wright County, Minnesota. (Fish – Clearwater Twp.) Tax #204-119-001100 Property Owner: Gloria Thorpe & Dennis Ziebart

REQUEST: Variance as regulated in section 155.006, 155.026, 155.049(F), 155.057(E)(1), 155.090 (Table 3) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a new single-family dwelling within the shoreland, road, and side yard. The proposed septic tank would be located within the setback to the building, sideyard, and the road. The proposed building and impervious surface coverage would be over the maximums allowed as well as below the lowest floor elevation requirement.

Present: Todd and Kristen Smith

- A. Ogle displayed proposed site plan and reviewed the request. The request to construct a new home 25.6 ft. from the Ordinary High-Water line, 12.6 ft. from the road right-of-way, 3.9 ft. from the south side yard and 6.0 ft. from the north side yard with a lowest floor elevation of 943 ft. and a holding tank 5.2 ft. from the road right-of-way, 3.7 ft. from the building, and 2.9 ft. from the south property line with a total building coverage of 20.9% and impervious surface coverage of 28.7% was continued from the September 15th meeting so that a site inspection could be conducted on October 9th. A variance is required as the proposed new home would be 25.6 ft. from the Ordinary High-Water line whereas 100 ft. is required, 12.6 ft. from the right-of-way, 3.9 ft. from the south side yard and 6.0 ft. from the north side yard whereas 15 ft. is required. The new homes lowest floor elevation would be 943 ft. whereas 944 ft. is required. The holding tank would be 5.2 ft. from the road right of way, 3.7 ft. from the building, and 2.9 ft. from the side property line whereas 10 ft. is required. Building coverage would be 20.9% whereas 15% is the maximum and impervious surface coverage would be 28.7% whereas 25% is the maximum. The 0.09 acre property is zoned Urban/Rural Transition and located on Fish Lake which is a recreational development lake in Clearwater Township. The Township approves of the request because of the reduction in impervious surface, increase in property value, and a conforming septic. Staff would like to point out that if the Board cannot justify the proposed expansion, they should still address the lowest floor elevation requirement if the applicant would like to do an exact replacement. An exact replacement would still require an elevation of 944 ft. with the 15 ft. “apron”. The Board could grant a variance for the lowest floor elevation to be no less than 943 ft. and remove the 15 ft. apron requirement to allow for what best fits the property.
- B. T. Smith – the idea is to replace the existing structure and remove lakeside sheds. The plan is to improve drainage issues on the property as well. Water runoff from the home will be addressed with gutters, catch basins, and drain tile as well as a small berm could be added. Asking to include garage space that will be replacement storage of the existing lakeside storage buildings. When property was purchased, the impervious coverage was 33.9% and they have since brought it down to 30% but final plans would be at 28.7%.

- C. No comment from the public.
- D. Neumann – the lot is small and this was known when property was purchased. Agree that the home needs to be replaced and that will require a large amount of fill with proposed elevation at 943 ft. The size of the home was questioned with Ogle confirming house plus attached garage is 780 sq. ft. If the house were to be pushed to the 100 ft. lake setback it would be in the road. There really is nowhere else to put the home and the house really can't be dropped anymore in size. Feels that the size of the lot has created a hardship.
- E. Mol – feels that the removal of the lakeside sheds are a positive. At the site he could see the gradual slope and agrees with the 943 ft. elevation. The applicant would be allowed to replace exactly what is existing and this entire plan, with the water runoff being addressed, is an improvement. Feels the proposal will be an improvement to the property and neighborhood. Would like to see a plan to keep all water on the property.
- F. Vick questioned if the garage area elevation could be lowered. Ogle – 943 ft. elevation requirement is tied to the home, because the garage is attached. Only way to allow a deviation from that number is if the garage is not attached to the home and is under 500 sq. ft. Vick – okay with the plan as proposed.
- G. Jones stated with the size of the lot there is no room to do anything. Agrees with what has been said by the other members.
- H. Aarestad – concerns were addressed.
- I. Mol moved to approve a new single-family dwelling that would be 25.6 ft. from the Ordinary High-Water of the lake, 12.6 ft. from the road right-of-way, 3.9 ft. from the south side yard, and 6.0 ft. from the north side yard. The holding tank would be 5.2 ft. from the road right-of-way, 3.7 ft. from the building, and 2.9 ft. from the south property line. Building coverage would be 20.9% and it was CONDITIONED that a stormwater management plan submitted at time of building permit application that shows the water will stay on the referenced property and an as-built survey is submitted showing impervious surface coverage would not exceed 28.7% and the lowest floor elevation is at or above 943 ft. The site plan/survey is noted Exhibit "A" and building plans Exhibit "B". Motion seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

7. **ARNOLD ERGEN** – New

LOCATION: LOCATION: xxxx County Road 75 NW and 5395 160th St NW – pat of Gov't Lot 5, Gov't Lot 6 and Gov't Lot 7 in Section 07, Township 122, Range 26, Wright County, Minnesota. (Fish Lake & Rice Lake – Clearwater Twp.) Tax #204-000-074300, -073100, -074102, -071000, -073102
Property Owner: Arnold & Jane M Ergen RELIVTR & Todd J Potter TR

REQUEST: Lot line adjustment as regulated in section 155.026 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to exchange land between parcels 204-000-073100 & 204-000-074102.

Present: Arnie Ergen

- A. Ogle displayed proposal map while reviewing the request. In 1984 there were lot line adjustments done to add abandoned railroad right-of-way to adjacent parcels. The applicant is requesting a lot line adjustment to clean up property line boundaries due to old railroad right-of-way land under their ownership. There will be no transfer, loss, or gain of entitlements as part of this request. The properties involved are zoned General Agriculture and located within Clearwater Township. The Township recommends approval of the request.
- B. Ergen and public had no comment.
- C. Mol stated he is familiar with the property and feels this request will be cleaning up lot lines.
- D. Vick agreed to the proposal.
- E. Jones stated he sees no problems with the request.
- F. Neumann agrees with this being a cleanup of lines.
- G. Aarestad agrees with the other members.
- H. Mol moved to approve a lot line adjustment as presented which exchanged land between parcels 204-000-073100 & 204-000-074102. It was CONDITIONED that the approval is subject to survey and combination of parcels with an Administrative Order or tax parcel combine form. Motion seconded by Jones.

VOTE: CARRIED UNANIMOUSLY

8. **SCOTT & SARAH AUBITZ** – continued from 9/15/2023

LOCATION: xxxx Quinlar Ave NW – Part of Gov't Lot 2, Section 05, Township 120, Range 28, Wright County, Minnesota. (W. Sylvia – French Lake Twp.) Tax #209-013-001020 Property Owner: John M Bishop

REQUEST: Variance as regulated in section 155.026, 155.049(C)(5), 155.057(E)(1)(1) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a new single family home that is at the edge of a bluff and in the toe of bluff as well as the construction of an accessory building that would exceed the maximum allowed for a single structure.

Present: No one present.

- A. Ogle stated that the applicant is requesting a continuation until the November 3rd meeting.
- B. Motion by Mol to continue the petition to the November 3, 2023, meeting at the request of the applicant. Seconded by Jones.

VOTE: CARRIED UNANIMOUSLY

Chairman Aarestad called for a 5 minute recess at 9:45 am.

9. **ROY STELZER** – New

LOCATION: LOCATION: xxxx 75th St. SW – SW ¼ of the NE ¼ and Part of the NW ¼ of Section 09, Township 118, Range 26, Wright County, Minnesota. (Woodland Twp.) Tax #220-000-091300 & 220-000-092400 Property Owner: Constance Beck, Roy A Stelzer & Linda A Stelzer

REQUEST: Lot line adjustment as regulated in section 155.026 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to add land from 220-000-092400 to 220-000-091300.

Present: Roy Stelzer

- A. Ogle displayed the site plan and reviewed request details. The request is to add approximately 10.75 acres from parcel 220-000-092400 to parcel 220-000-091300. There will be no transfer, loss, or gain of entitlements as part of this request. Parcel ending in -091300 is currently 41.58 acres and parcel ending in -092400 is currently 61.30 acres. Both are zoned General Agriculture and located in Woodland Township. The Township did not recommend approval as the proposed lot line adjustment would not allow access to tillable land to the north. A neighbor does not support the request.
- B. Stelzer stated he is not sure where the resistance from the Township is coming from.
- C. Aarestad opened the floor to the public.
 - Ron Broll – has farmed the 61 acres of tillable since 1977. If this request goes through there will not be access to the farmland. He does not want to see this request approved.
- D. Vick confirmed that the division of property from parcel 220-000-092400 will be combined to 220-000-091300. Ogle displayed the wetland area and reviewed that access to the farmland would be cut off and commented prime tillable is not a question with this lot line adjustment. Vick stated he agrees with the Township.
- E. Jones – if possible, relies on the comment from the township and seldom disagrees. Not being able to get to the property is a problem and he would not be in favor of the request.
- F. Neumann stated he is in agreement with comments of the other members.
- G. Mol – not a land locked situation but would cause farmland to be inaccessible. He would like to see a 66 ft. owned strip. His suggestion would be for the applicant to go back to the property owner and talk about an owned 66 ft. strip to allow access to that farmland. He would be in favor of that but not as presented. Stelzer – he will have to talk with the owner.
- H. Aarestad – agree, option is to revise plans and come back with a solution to access, withdraw, or allow for a vote. Stelzer asked for clarification on what needs to be revised with Mol explaining the 66 ft. owned access strip. Kryzer stressed it must be an owned access strip not an easement. Ogle stated that the applicant could work with staff to revise a plan.
- I. Vick moved to continue the petition to December 8, 2023, to allow time for the applicant to revise plans. Motion seconded by Mol.

VOTE: CARRIED UNANIMOUSLY

10. **JACOB SAUFLEY** – New

LOCATION: LOCATION: 10860 Carling Ave SE – SW 1/4 of SE 1/4 and the SE 1/4 of the SW 1/4, Section 28, Township 118, Range 25, Wright County, Minnesota. (Unnamed NE Lake – Franklin Twp.) Tax #208-200-283400 Property Owner: Walsh Properties LLC

REQUEST: Appeal as regulated in section 155.026 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances of the Zoning Administrators determination of a Nonconforming Use.

Present: Jacob Saufley, Conner Walsh with Walsh Properties LLC

- A. Saufley – here to discuss the operation of a tree business that has occurred for over 50 years. Using rough math there is 3.5 tillable acres on the western side with the rest of the property is wet land and scrub land. Property has been used for residential housing, since construction, and as far as he is aware always used by someone who owns or runs the business.
- B. Ogle stepped in to give an overview to the Board and public. With the location map displayed the request was reviewed. In a letter sent to the property owner by the Zoning Administrator stated that the prior nonconforming use at the referenced property ceased on or prior to July 19th, 2023. Wright County learned that on July 19th, 2022, the property owner filed for homestead with Hennepin County on a property located in Orono, MN. Wright County confirmed the homestead designation for the Orono property is still active and has not been rescinded or vacated at the time of the letter and more than one year has passed since the homestead application in Hennepin County. Additionally, there has been no time the property owner homesteaded the referenced property since purchasing the property in 2020. The definition of a non-commercial contractor's yard includes language stating, "buildings and structures, including limited outdoor storage, located on the homestead of a contractor in the building trades or other similar business, for the purpose of storing machinery and equipment related to the business which is primarily conducted off-site." The Zoning Administrator stated the illegal expansion issues at the property are moot as any use of the property as a prior nonconforming contractor's yard is now extinguished due to abandonment as the property has failed to meet the definition of a non-commercial contractor's yard since at least July 19th, 2022, and no longer qualifies as a legal nonconforming use. The request is to appeal the Zoning Administrators determination of that nonconforming use. The Township does not support the appeal and agrees with the findings of the County that the business owner does not live at that address.
- C. Saufley passed out two exhibits to the Board as well as displayed on the document camera while reviewing the exhibits. First exhibit is the Hwy 12 Corridor Land Use Plan with the property in question stuck between the growth area near Watertown and Delano. In this area the topography is grassland surrounded by a sea of agriculture that is prime farmland. This property is a grassland property and he wanted to make sure that was understood as part of this conversation. The second exhibit is a Beacon aerial photo depicting the rough tillable area in the north corner at roughly 1.5 acres and the southern portion of about 2.8 acres. This amount of acreage is not much use to anyone operating in the area. Everything to the east is wet land. The 1998 amendment for the non-commercial homestead contractor's ordinance was mentioned by Mr. Ogle; he would submit their rights track back before this point. Going back to at least 1975 this property has been used as a tree service company and the business processes have not changed. A difficult and complicated part of this situation is the Conditional Use Permit (CUP) requirements of the County and that there has never been a CUP on the property and the Emery's never obtained a CUP. When Mr. Walsh

purchased the property, he thought he was continuing to operate the business as it had been and did not think twice about asking the County if it was an approved use. It is important to note that there is no other useful purpose to this property in the Ag district and why the Emery's used it this way and why his client has continued to use it this way. Recently the water management office visited the site and reviewed the property and there were no negative reports as to the setbacks to the wetland. Minnesota Department of Agriculture (MDA) visited the site and looked over the wood burner, that provides heat to sheds on the property. One item that caught attention of the County is installation of a wood burner. The wood burner is not an expansion, if talking non-conforming use, the wood burner is an improvement. The wood burner is a cleaner and more efficient way to handle the waste that has always been handled on the property. Ultimately, his client is providing jobs within Wright County as his predecessors did. They are here to appeal the determination of the Zoning Administrator and feel the use should be allowed to continue. Submit that if they have to be put into a category, within the code, he feels forestry is more appropriate. Not because there are trees being grown on the property and a forest is managed but because an enormous amount of work that happens in forestry use happens on the property. The Zoning Administrator is trying to argue that as a use they are a contractors yard but that work takes place off site. In this situation half of the work done is onsite in the same way that it occurs with forestry. Here asking to allow the business to continue in the same way it has for 50 years. Options would be to allow in saying they are compliant with zoning code or reclassify as a forestry use.

D. Aarestad opened the floor to the public with a reminder to keep comments to 3 minutes and try to avoid repeating statements.

- John Czanstkowski – Franklin Township Supervisor – with the previous owner there was nowhere near the smoke problems. There was a small fire and wood heater. What is happening now is the residents are in a low area and the smoke permeates. The main issue is that they do not meet the CUP requirements and hearsay is that the house has been rented but now appears to be empty. Personally, he no longer sees lights or cars at the property. Mainly this affects the neighbors and there could be other ways to process the wood. The past owner would chip the wood and sell for heating. Property is located in an Ag residential area and affects a lot of people. Noted Franklin Township disapproves of the request.
- Pam Blacketter – directly east of the property – owned property for many years but built home 2 years ago. Noticed a decline in property maintenance and addition of a lot of stuff that does not look good. Understands it is a business but there has been addition of an open burner and the smoke smell is horrible and the smoke hangs in the low area of her property. In February she noticed an employee leave the driveway and the incinerator was full. Soon after that the swamp was on fire. Fortunately, it was snowy and the fire was contained but the smell permeated throughout the house. They are not able to open windows or do things outside because of the smoke smell. On April 13th it was a red flag warning day and there was to be no burning. At 8 p.m. they noticed a fire had started from the open incinerator. The fire ended up burning through their swamp and swamp area right up to their mowed area of yard with their house being hosed down to keep safe from fire. There was no one at the site to watch. She does not feel they are being good stewards of the neighborhood because they do not live there and they are not vested in the neighborhood. It is a business but no one is there to watch and take care of things to ensure things such as this do not happen. Understands businesses need to evolve and change but she does not feel this is the right place for this to be happening.

- Mike Webert – has lived 2 properties south of property in question for 2 ½ years and this last year the fire department was called 4 times. Photos on phone camera were displayed using the document camera from the April 13th incident. Had that wind been going west all of the swampland would have been taken out with no way for the fire department to access. Regarding being stewards of the land it is clear that if someone was living at the site, they would take more pride in what is happening. There are logs and piles of debris at the site. Hope is that the variance is not approved. Kryzer asked Mr. Webert to email photos and video to Planning & Zoning for the record.
- Dohty Logue (Doris Logue) – has lived just south of this property for 25 years. Will focus on her knowledge that Mr. Walsh does not live at the property and has never lived there. Regularly walks the area and usually walks early in the morning. During walks, the last 3 years, would see Dan Duchanie and his partner. This summer Dan stated he was moving due to the amount of activity. To her knowledge the home has since been empty. She does see the general manager arrive early to stoke the fire and when done leave. She is sure Connor Walsh has never lived on the property.
- Al Sandquist – is speaking in support and in mutual agreement with the Wright County Zoning Administrators opinion that Connor Walsh does not live at this property. Any details on that can be seen in the documentation he previously provided to Wright County Planning and Zoning. Understands the matter being voted on today is the appeal for the prior non-conforming contractor's yard that has not been extinguished due to the homestead requirement. He has owned and lived on his property for 26 years. Prior to Bratt Tree Service the Emery Tree Service was in operation. During the 23 years of living near the Emery Tree Service operation they never had concerns or issues of any kind. Since Bratt Tree Service has used the property, they do have concerns. There is excess smoke year round. Photos were displayed using the document camera and explained. The smoke drifts onto the neighboring properties and roadways. Especially concerning is the smoke plumes from the smaller outdoor furnace that burns 24 hours a day 7 days a week. Presumably that heat is used to kiln dry firewood that is sold by a separate company that operates from this property. There is constant daytime noise at the property, such as backup beepers of a payloader and trucks. There is also noise from large automated firewood processing equipment. There is concern with the uncontrolled fire hazards. He has personally been contacted by the DNR related to criminal prosecution occurring against the property. There is a noticeable increase of neighborhood traffic and general degradation and appearance of the property. Kryzer asked Mr. Sandquist to email photos to Planning & Zoning for the record.
- Tim Roth – lives to the west of the property in question. What neighbors have stated is true and what his family has experienced since December of last year, when the burning started. He has young children and he is concerned with the smoke that is always in his yard. In June there was a day when the wildfires from Canada were making the air very unsafe with the news talking about air quality warnings, that is every day or at least 4 days a week at his home. Confident that this property has been rented and the owner of the business does not live on premises.
- Joe Ellens – works at the site. All of the photos displayed of the boiler is when wood is put in and lasts for 15-20 minutes and the smoke dissipates. The first fire occurred the first day he worked and it is not known how it started. Eventually the fire department let the fire burn out

- as there was no more that they could do. According to the DNR the April fire started from the peat moss and a pile of stumpage. He was at the site that day and thought he had taken care of the fire but apparently did not. Regarding a criminal investigation, that would be him personally getting a ticket from the DNR. He is at the site every day and at no point has anyone asked what happens on the property or asked if there is anything that we could do for them to help accommodate. He lives in Delano and accepted the job to be close to home and what is happening at the site is a good thing. He understands the neighbors' concerns but the photos being shown are the worst case. He is getting filmed daily during the times he is operating machines and feels that can be dangerous and distracting. They are not doing anything at the site that was not done before. Both the DNR and MDA have been at the site and found there to be no issues. Again, no one has come to the site to talk about concerns. He knows that if you have a problem, you should go and talk with the neighbor. Kryzer questioned who lives at the property. Ellens – currently no one lives there. Kryzer asked if Connor (Walsh) has ever lived on the property. Ellens – started in February, before that he has no idea. Vick – questioned if any of the workers live on the property. Ellens – Dan lived on the property prior to him starting with the company, not sure when he moved out.
- Josh Soal – has worked with Bratt Tree Service for 2 years. Lives in Waverly with a young family and it is helpful and convenient to be close to work. Always a professional work environment that has been a good and rewarding place to work. He grew up as an arborist and appreciates that he can develop his trade so close to home. There are people that live and work in the area and are caring and passionate in what they do for the company.
- E. Jones – difficult with what is seen and what is happening with no way to validate either or. Is concerned that no one lives at the site, as is the Township and County. He does not know what the Forestry could do or knew up to this point. Right now, he is not very favorable to what is being requested.
- F. Neumann – when reading through the staff report he was wondering why it would matter if someone lived at the site. After hearing from the neighbors when this type of operation was first allowed maybe it did make sense that condition was included. Most impressed with the Township. A business in the township is good for jobs, revenue, and the tax base. The Township does not support this appeal and he feels they took the value of the business in their Township real seriously and that would not take it lightly that a business would cease to exist. When talking about expansion of a business, as a Township Supervisor, he likes when business grow as they create more jobs and revenue. But when a business grows to a point where they detract from the value of the township than that is also a concern. After hearing everyone speak, he may need to take some time and think about this for a while with a continuance to allow time to sort out where the value lies.
- G. Walsh stated his employee, Dan, moved out a few months ago and the decision was made to leave the home empty until this issue was resolved. He does have another employee that will move into the home. The main complaint he keeps hearing is the smoke. He does not need smoke to run the business and if any of the neighbors would have made contact, he would have made immediate changes to make them more comfortable. The AirBurner has not been used since March. Agrees that the fire was super scary and he was at the site. The fire department basically told him he was having a brush fire and go back to bed. The boiler can be replaced with an electric water heater but that seems like a waste of energy. He could stop the smoke in an hour if that is what the neighbors want. Originally, they did not have a smokestack on the boiler, that heats the sheds and kiln, and when

added it did get the smoke roughly 20 ft. into the air. He is willing to make some changes and is frustrated it has gotten to this point and shocked that none of these residents contacted him.

- H. Mol – this Board is here related to an appeal of the Administrators determination. Serving on the Planning Commission the one thing a CUP always has is that the property owner is present. This is why contractor yards and business are allowed in the townships and rural areas because the owner is there on the property. If there are problems the owner is there not someone else leasing the house. This has been a strong portion of CUP's. Understands property was purchased and chose to not live in the home but the property is big enough to build a new home and live on the site. The determination of the Administrator is that the property is not homesteaded to the owner of the property and why here on the appeal. The use of the property and burning of wood is not the issue. The determination is related to the homestead, does he (Walsh) live there or not. Testimony was given that it is known the property owner has never lived at the site. In his mind they are not in compliance with the CUP.
- I. Kryzer stated that this is a prior non-conforming use, there is no CUP at this property. According to the 1974 Ordinance this was not even a permitted or conditional use, it was allowed in 1995 and amended in 1998. Provided he (Walsh) continued to meet the 1995 and 1998 conditions of having the property homestead it was the Zoning Administrators opinion the use could continue as the legal non-conformity. Under Section 394.36, if after 1 year of not meeting the residency homestead requirement the prior non-conformity had extinguished. The main issue of what is being dealt with today is the residency issue. While briefly touching on the expansion issues it was determined that issue was moot with the non-conformity ceasing. The determination was that the use discontinued with the non-residency or homestead.
- J. Vick – it was mentioned that a worker lived at the site. Is it true that if a worker lives at the site, it is the same as if the owner does? Kryzer – the Ordinance reads that a *“Contractors Yards only on the homestead of the contractor and subject to storage and screening requirements”*. It specifically states homestead. Vick – next question is regarding other contractors bringing in material. Walsh – owns 5 different tree services that are operated under Bratt Tree. It would appear others are bringing tree debris to the site but they are all his trucks. He has never had it be a dump where people can show up from other companies. Vick – concern is material coming in from disease infected areas. Walsh – agree, anything that goes into the AirBurner is incinerated. Vick – his main question is if the property owner lived at the site and if an employee is equal to that requirement, which is does not. Walsh stated he never knew he needed to live in the home when it was purchased, no one ever told him that and had he known he never would have purchased the property. He never told anyone that he did not live on the property. Kryzer stated he would like to contradict Mr. Walsh on that statement and questioned Mr. Walsh if there was correspondence with the Zoning Administrator. Walsh confirmed conversation but he never stated that he lived at the site. Kryzer – documentation was sent stating his (Walsh) driver's license was changed to this address, correct? Walsh stated he did have a phone conversation with him (Zoning Administrator) where he asked what document was needed from him to be left alone and allow him to continue operating. Kryzer asked if he (Walsh) went to the Department of Public Safety and changed address. Walsh – yes, upon his (Zoning Administrators) request. He did offer a utility bill, with his name, but was asked to provide a driver's license so he went to DMV (Department of Motor Vehicle) and changed his address. Kryzer – changed address to a property he did not live at, correct? Walsh – correct, a property he owns but does not live at but has operated his business at for over 2 years.

- K. Saufley – it is clear his (Walsh) response was a businessman trying to solve a problem. In no way did he represent that he lived at the property, he never filed homestead at the property. Kryzer – client stated he was not aware he needed to live there. He (Walsh) had correspondence with the Zoning Administrator stating that he needed to live there. Saufley – his client stated when he purchased the property, he did not know homestead was a requirement of operating the tree service. There was a conversation via email in February 2023, which is a very different time. Mr. Walsh is discussing when he purchased the property not years later. Here today because Mr. Walsh has come to realize there is a homestead requirement. Looking at property records it shows Dale Emery sold to John Emery in 2005 and the business was not sold until 2009. There was a 4 year gap when the homestead was not the same as the businessowner. Emery's still operated business but there was the same discrepancy with a nonowner living on the property. As initially stated, as far as he knows, there has always been an employee living on the site. After receiving the notice in February, the home has sat vacant but the intention is to have an employee in the home as soon as he can, assuming the use is allowed to continue. Mr. Saufley distributed to the Board the state registration for Emery Tree Service and explained to be a tree service one needs to be licensed and registered with the state. The registration shows the counties in which Emery Tree Service operated. With the registration form for Mr. Walsh in hand Mr. Saufley went on to explain that Wright County is not listed as a county Mr. Walsh collects trees. The trees come from the general metro area and is same range of operation that the Emery's operated. Vick stated that was a side concern. His main concern was if a worker gets the same treatment as the homeowner. Saufley – stated counsel is correct as to the way the ordinance is written but in practice it is not the way the County has treated the property or the use. That, is in a way, what is being asked and by looking at what has been occurring 50 years if there is there a path forward for this business.
- L. Aarestad stated he does not support the appeal. However, he feels a recommendation can be made to move forward. He feels a CUP would solve a lot of the issues presented today. There would be an opportunity as a neighborhood to discuss hours and limits, as that is what a CUP addresses. A CUP also give the opportunity for future review of the operation and chance to address concerns. He sees two parts of a business with the day-to-day operations and then the burning. Suggestion would be to do separate CUPs so that they could be addressed individually. The burning is a separate issue with the day-to-day part of the operation being similar to farming with equipment and debris on the property, which goes along with living in the country. "Grandfather" clauses are dealt with by this Board all the time and they are considered triggers. When a property is sold the new owner is there as a reset. Aarestad reiterated that he is not in support of the appeal and questioned if this is a simple yes or no or can recommendations be made to pursue a CUP. Kryzer – decision today is to affirm or reverse the Zoning Administrators decision. Mr. Walsh would need to apply for a CUP by filing an application and meeting the requirements. There is a process in the Zoning Ordinance for non-conforming contractors yard with the Planning Commission hearing that request. Aarestad called for a motion.
- M. Kryzer suggested if the Board is at the point of a motion that the public hearing be closed to further oral and written submissions with the exception of Mr. Webert & Mr. Sandquist being allowed to submit the presented video and photos. Aarestad, as the Chairman, stated he would like to make that recommendation.
- N. Mol moved to direct staff to draft findings affirming the Zoning Administrators decision. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

11. **KYLE ANDERSON** and others for the neighborhood community – New

LOCATION: LOCATION: 5026 105th St SE – PRT OF W190FT OF TH PRT OF S 20 ACRES OF NW1/4 LY N OF S198 FT, Section 28, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax #208-200-252302 Property Owner: JKP Properties LLC

REQUEST: Appeal as regulated in section 155.026 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Kyle Anderson

- A. Ogle – displayed the property location and reviewed the request. Wright County granted the property owners request for reasonable accommodations for Step Up Sober House located at 5026 105th St. SE in Delano MN. The Zoning Administrator determined that the applicant for Step Up Sober House has established that allowing non-family residents to reside together in the R-1 zoning district is reasonable and necessary to afford qualified residents, as that term is defined in the County’s Reasonable Accommodations Policy, the equal opportunity to use and enjoy the property or to ameliorate the effects of qualified resident’s handicap. The Zoning Administrator determined the allowance of nine non-family residents is reasonable and appropriate for the referenced property considering all the information submitted by the applicant and physical attributes of the property such as size, number of bedrooms, number of bathrooms, and the health, safety, and welfare of the residents. The request is to appeal the Zoning Administrators determination for reasonable accommodations based on the application materials submitted by “Step Up House.” The Township supports the appeal as they would like the County to uphold and enforce the codes as originally written since this business is not allowed in the zoning district. The Township believes the reasonable accommodation should not be granted. Neighboring comments were in favor of the appeal.
- B. K. Anderson stated he was the top signature on the appeal and only signed the document as a representative of his community as a whole. The neighborhood believes that the zoning regulations, for the neighborhood, should be enforced as written and intended. What that means is that in general most businesses should not be allowed in the zoning district of the neighborhood. Short-term rental occupancy businesses should not be allowed in the neighborhood and specifically it means that short-term occupancy facility that caters to individuals dealing with mental illness, drug addiction and have serious run-ins with the law should also not be allowed to operate in the neighborhood. Today is a Friday and difficult for many people to get here yet it can be seen (in the audience) the community is concerned with what is occurring. In addition to the people present there is a petition that was centered in their neighborhood with approximately 150 signatures, most from the immediate area but some general residents of Wright County. There are also a few letters residents that could not make the meeting handed directly to him and he has those to provide to the Board. People share the sentiment that this business should not be allowed to operate in the neighborhood. They are negative consequences this business brings to the neighborhood and there has been incidences already at the home. The business started operation in the summer of 2022, notably without permission from the county. The neighbors realized something was going on when strange characters were around and notified the county. The county originally agreed the business should not be allowed to operate and his understanding is a cease and desist order was sent. At that time the property owner lawyered up and we are now here today. The property owner does not live in the neighborhood, she is an absentee landlord. Submitted in the appeal,

that was a group effort, are reasons why they feel this business should not be allowed to operate. In this last year there have been several events that are out of the ordinary in the neighborhood, including where the Sheriff's Office was called. Last summer there was an incident where an occupant put on a thong speedo and sunbathed on the septic mound, right along the road and in full view of anyone passing. Not that it is illegal to sunbath anywhere you want but it is against the decency of the community. On March 13th, 2023, the Sheriff's Department attempted to serve a warrant for someone believed to be at the property, unfortunately as members of the public they cannot get access to what was exactly occurring or the outcome. On October 1st the emergency services were called to the property and the understanding is it was related to a drug overdose. Things are happening at the property that are out of character of what the neighborhood is like. In this last year there has been a change in the positive character of the neighborhood. The living facility allows 9 people to stay there, one of which is house manager. This is a small 1,500 sq. ft. home and with 9 adult males in a house that size is a lot. It is for short-term occupancy and intended for people to stay 90 days. Aarestad reminded the applicant to try and not repeat what has been provided with the application. Anderson – the math is 32 people in a year can come through the neighborhood. Those 32 people passing through have major issues with mental illness, drug addiction, and run-ins with the law. If the Board can image 32 people passing through where they live, with these major problems, one can imagine what they are going through. There has been a change in the neighborhood with people not allowing their children as much leeway.

C. Aarestad reminded the public to keep comments to 3 minutes and to focus on the subject related to the appeal.

- Steven Huish – moved into neighborhood with the purpose to live in a town and community his kids could roam around and be in the country. For the first 2 ½ years that is what it was and the best place to live. They don't want to move but are starting to question that decision. Has 4 kids, ages 11-4 years old and he wants to be able to let his kids ride bikes freely. But having someone walk down the street with a hood pulled up and all of a sudden stop and drop to the ground scares his kids and neighborhood. Also, people that come through the neighborhood look into his house windows and run away due to his barking dog. Why are they looking in his house and doing these things that scare people? He moved out of Austin, TX and Phoenix, AZ to not have this. Delano and Franklin Township are not this kind of community and so he would ask the Board to uphold the appeal.
- Roger Nelson – lives in the area and has a fairly long driveway. He had someone walk up his driveway and once he was by the shed, which is near the home, he asked the gentleman if he needed help. The gentleman apologized and stated he would turn around and go back. That was scary and since then they have started to lock everything up.
- Steph & Tom Steidl – S. Steidl stated they moved to the neighborhood August 23rd and just became aware of the situation. They echo what has been said but will focus on the legalities. This woman is operating a 'for profit' business branch of her company in a residential neighborhood. She is an addiction therapist in town, how convenient to send her clients and patients to her 'for profit' house that is no bigger than 1,500 sq. ft. for 9 grown adults. This is a 4-bedroom house with one of the bedrooms being lived in by the property manager. This is a residential

neighborhood and not meant to be zoned for a business. To have someone operate like this for a year, illegally, come back and submit an accommodation to get approved sets a very dangerous precedence for all real estate legality in Wright County. T. Steidl – they do have young kids. He would echo what was said by others. The key to him is if you are a small businessowner in a community like Delano you would think you'd know the ordinances prior to opening a 'for profit' business in a single family designated zoning area. It begs to question why wouldn't a businessowner go through proper channels to being with. It is obvious why this owner opened this house and is funneling clients to the home in a very profitable manner on both ends of the business. Regardless of how this is looked at there is conflict with the zoning code of keeping the area as residential single family homes.

- Erika Granja Anderson – resident of neighborhood for 8 years. Owns a 10 acre property tucked back that is very peaceful and they have never felt unsafe, until now. Her wish is for tenants to get better, get treatment, and find peace for themselves but this is not the right place. She moved here to have peace and raise her children. This location is not the proper zoning for this type business. Ms. Anderson stated she has a statement she would like to read from a neighbor that is not able to attend this meeting. The written statement from Tammy Schmidt was read – *her son passed away 3 years ago due to substance abuse and mental illness. He died at the age of 28. She has a total of 6 children and her son was a twin. About 6 years ago she had to put a restraining order on her son due to his behavior. One night, before the restraining order, it was like an episode of Cops in their front yard. Her sons eyes went black and he tore his shirt off like the Incredible Hulk. At the time she did not know her 12 year old daughter watched from the window. After the restraining order was in place the family was not allowed to see her son for 2 years. Later it was discovered that he was bipolar due to concussions from sports injuries. He continued to struggle for a long time but was able to have one year of sobriety. In the end he passed away in his sleep in January 2020. Regarding the housing in the neighborhood, even if her son lived there, she would be fighting to get the program removed. People in that type of recovery and the emotions they go through are very unpredictable. It is not safe to have them in the neighborhood with small children.*
- Greg Huotari – resident of neighborhood for 18 years. He opposes the exception and would like to decision to be rescinded. Agrees with what has been said by others. Biggest issue is right from the start the rules were broken so what does that say about the business she runs. How will the facility be run if that is how it was started?
- Mike Sturman – lifelong resident of the neighborhood, born and raised. Moved out for 7 years but moved back with his kids to have the same great experiences he did as a kid. It is great to see the younger kids in the neighborhood but it is not the same now. His 17 year old is concerned because of what she sees. The neighborhood takes care of each other and each other's kids. This location is not a good place for this.
- Barb Matauska – lived in area for 47 years. Read a letter on behalf of Kathy Berscheid – *worked with developmentally disabled, mentally ill and substance abuse system since 1973. The clients that enter treatment now are way different than in 1990's. Criminal justice is much more the*

driving force and motivation for the clients to get out of jail. It is not necessarily the addiction, their moral conscious, and values that is motivating the client's anymore. The criminal justice system refers directly to programs. Criminal justice patients need to be in a more intensive residential program with a 24 hour awake staff. Not an outpatient program with only 20 hours a week of programing and 1 (one) house staff that works 365 days a year and sleeps at night. Some substance abuse clients bring criminal histories and criminal behaviors with them. Other disabilities do not. Many clients relapse. The relapse is not the problem. It is the behaviors that happen when the client does not have any money to pay for the chemical that they want to use is the issue, like thefts, burglaries, breaking and entering, robberies. This type of facility should be in a city that is near law enforcement and medical care. It should be zoned commercial or multi-family.

- Elvina Nelson – lives just down the road and when they built their new home in 2002, they had to put in a larger septic system due to the number of bedrooms or decrease bedrooms. Concern is if the septic system is to date, she thinks not.
- John Czanstkowski – Franklin Township Supervisor – Township is not against the business we are against the location. Realizes people with these health problems do need a place to go but his opinion is that the location is wrong. Believes he is elected to represent the majority of the people in the township. There are places like Adult and Teen Challenge that work really well. If we are going to have a business it needs to be done the right way and be concerned on how many other people it affects. Maybe there are some changes that could be worked with and the house stay. As far as he knows the Township was not aware anything was occurring until residents came froward. Feels there needs to be more communication between the county and the townships. Usually, it works really well but in this case they (Franklin Township) were not aware of the situation.
- Jim Meehan – owns a home on County Road 17 SE. His concern is if this goes forward how many more issues this house will have before it is shut down. He has been a landlord for over 40 years and still is one. He has seen quite a lot and one of his biggest issues with tenants is the friends that show up to visit. He wants the best for the people in the group home but his safety concerns are with his family and neighbors. Against this group home and feels 9 people in this little house is way too many.
- Stephen Klingelhoets – agrees with what has previously been stated. They are supposed to be supervised at the house. There is a single car garage, that cannot be parked in, so when there is no car there than there is no supervisor. On the weekends, that is when the activity with cars parking in front of the house or down a few house occurs and there appears to be stuff exchanged. If they are supposed to be in treatment, it does not appear to be working when the supervisor is not around.
- Jeremy Topel – lives next door at the large farm. Agree this should not be put into a residential setting. The crime that comes along with this will cause him to now start locking his stuff.

- Steve Benjamin – resident for 35 years. Shared that he visited the bait shop in town and brought up the situation. It was stated that they did have the house next door to where the Culvers is being built. They (tenants) would come into the bait shop and ask to look at handguns but because they could not produce a Permit To Carry, they were not allowed to view. Four young gentleman proceeded to shop lift in the sport shop and the Sheriff was contacted. Mr. Benjamin feels that this is not a good thing.
- Donna Zitzloff – neighbor that agrees with all that has been stated. She has noticed cars parked on the street and some of the tenants of the house go across the street and talk for a few minutes than the car leaves. Agrees with everyone on this matter.
- Rick Burbank – listening to what has been said, how did we get this far? Who did she have to go through to get permission to do this? Is this not a government issue? Feels this should never have happened.
- Rosemary Swanson – live on 106th Street – they own a small business in the City of Delano and if this goes through than she is going to park all that she owns on her lot. She feels they see creepy cars going through the neighborhood. There are a lot of little kids that are watched by the neighborhood. They moved into the town September 11, 2001, and since that time the neighborhood has really watched each other's kids. She is afraid for her grandchildren, that catches the bus here. They had a theft in their business so they have been very careful and lock everything. Now it is a real concern that all neighbors have to lock-up their items.
- Melanie Sturman – neighbor that agrees with what has been stated by others.
- LeAnn Zimmerman – husband and herself live on 105th street and have since 1972. They have noticed that when the development was first established the neighborhood kids would walk, ride bikes and be laughing. Now they get to her house and they turn around, they don't go to the end of 105th street. It is not the same anymore and not right.
- Gene Zimmerman – opinion is that these people are not allowed to run free in society for a reason. They need treatment and they should get treatment but the treatment should be given at the location that is treating them. Does not think they should live beside him if they can't live in society. Feels it is an insult to allow them to live next-door to him when they can't live in society. They should live where they are getting the treatment.

D. Aarestad brought discussion back to the Board.

E. Neumann – everything that he has heard is 'not in my neighborhood'. In Albion Township there has been a facility that housed 25 individuals recovering from mental illness. That might be different because it was staffed 24 hours a day. If it is addictions or handicap, they are going to be in someone's neighborhood. These programs are productive, they are not 100% but they are worth the merit and people do recover. He is a landlord who has had and currently has a tenant that is trying to recover from alcoholism. It is not pretty or nice and it seems that person falls off the wagon because he does not have any support and is alone. Here there are other people that can socialize and talk with each other. In the

Albion Township facility there were some individuals that might not look and act like us but they are trying to survive, just like us. The Administrators decision was most likely agonized over and was not a rushed decision. As a landlord you cannot discriminate. There are rules about who and where people can live and sometimes that falls into a spot where there is contention with neighbors.

- F. Mol – agrees with member Neumann’s comments. One item he did not hear from the public is that someone has confronted the landlord, if they did, he would like to know. K. Anderson – in the very beginning they spoke once on the phone and she was very defensive. He asked what was happening on the property and she immediately clamped up, was very defensive and very unforthcoming. In that conversation she basically stated that she has a right to have people stay at the property along the same lines someone can have out-of-town guests. Feeling was at that point she was trying to hide what she was doing. She also stated that she was not charging rent but she has an umbrella of companies that she is running. She owns several clinics and the only people that stay at the house are ones that attend her clinic. He feels it is a shell game with how payment is received and she was trying to hide what was being done. Addressing comment from member Neumann; if one of our neighbors wanted to operate a short-term occupancy business, regardless of clientele, they would need permission from the county. If he asked to have 9 people stay in his 1,500 sq. ft. house that are not related and run as a business, he believes he would be denied. We are not zoned for multifamily. Aarestad asked to stay focused on questions from the Board. Mol – does not know all of the rules and laws that she has to abide by. Maybe it does need to be 24 hour care but the appeal is related to the decision of the Administrator. He feels that the Administrator made the best decision he could with what he had. Does not like that it was done under the radar but having submitted all the applications and going through all the steps after-the-fact the Administrator was put in a position that a decision needed to be made. Understands what the neighbors are saying and the challenges of a good neighbor with 1 (one) bad neighbor.
- G. Vick – feels different because he put himself in their position. He would not want this in his neighborhood and them (property owner) not being here to represent speaks loudly. A lot of his questions are for the property owner and related to the condition and safety of the home. With 9 individuals living in that home, she can’t say that someone with a wheelchair can’t get up and down the steps. Feels the Administrator did his job but the rules maybe need to be changed. Maybe this is something the County Commissioners can address and not allow. He does not feel this should expand to all neighborhoods and instead maintained in city locations and zoned commercial. This is a business and should be treated as a business not a residence.
- H. Jones – going along with member Vick. Has trouble because there is not a representative present to talk and says a lot. Kryzer – the property owner has no duty to be here today. There is no obligation or requirement as they did not make the appeal. They can wait to see what happens and if they don’t like the outcome, they can sue in the Federal Court under the Fair Housing Act and Americans with Disabilities Act. Jones – if this Board doesn’t make the right decision, they can sue us. Kryzer – yes, they will sue us.
- I. Aarestad – the problem facing us today is not exclusive to Wright County, it has been a problem in every state. Since the growth of the sober house there is an explosion of an opioid epidemic. As a result, zoning rules have not been kept up to date. This sober house has its own culture and he does not feel zoning ordinances have adapted. Feels this is a business and they are arguing it is a residency. As we learn the sober house industry you begin to realize it is a business but what category does it fit? Is it a business,

boarding house, private resident, or rental property? To compound the problem the sober house industry has no central governing body overseeing and regulating. This is not a clearly defined use so the responses are being met but we don't know what to call it and he feels that is a grey area. Here today to decide if the County applied reasonable accommodations according to the Americans with Disabilities Act. He would argue that the County did not meet the obligations to provide reasonable accommodations. The current accommodations conflict with existing policies and practices that ensure the occupants expectations for safety via codes and ordinances. This decision has fallen short to ensure the health, safety, and welfare of the residents wellbeing. Who is looking out for these are disabled people and vulnerable adults? We have Planning and Zoning rules in place with the primary goal to protect the public. Example would be a fire in the home. A building sketch was provided that tells him nothing. What are the room sizes and are they basically the size of cells with plywood walls? If classified as a business we would know these answers. As a County we need to dive into and know more about the sober house industry. There is even a difference between sober house and sober living facility. Are these renters or boarders? Feeling is they want us to believe this is run like the Cleavers and as one big happy family living in harmony but it is a business. Is there rent or a bundle of services? This is an extension of a service the clinic is offering and is operating as a business. He does not feel that Planning and Zoning rules have caught up with sober houses. Another concern is if these disabled occupants are afforded the same rights and protections under the building and safety codes. He would say no, they are not being afforded that. There was a fire in Minneapolis a few years back where people died in a high-rise with the lawsuit awarded partly because they had not updated to meet building code and modernize with a sprinkler systems. What is being done to ensure the safety of these vulnerable adults? Aarestad stated he is in support of the appeal.

- J. Mol – everything mentioned by member Aarestad and Vick he agrees with. However, what is before the Board is what the ordinance is currently. Yes, maybe the ordinance needs to be rewritten. Right now, the Board has to go by today's law and ordinance. Aarestad – question is if they did proper accommodations. He is saying they did not go far enough. No, they did not accommodate these residents of special needs because it conflicts with existing ordinance. A problem has now been created that these special accommodations are not fully being met and not afforded the same equal access. At the heart of this is if these people have equal access and accommodation that is reasonable and his opinion is no. Vick – 100% agrees. Feels that if there is a fire it might not be set up as if it were a commercial building. We need to look at the rules and if there is a ramp, railing or way out of the basement during a fire. He feels a lawsuit could come up either way and it could put the County in a very bad spot. Feels the use should be denied until the set-up of the house can be addressed. Jones questioned if the County is only responsible for this County or are we looking at something much broader. Are there agencies outside of Wright County telling this owner that they can go ahead? Aarestad questioned if the right accommodations are being met for their special needs? Jones stated he does not feel they are and questioned who is responsible for that. Vick – other counties have been sued over this issue. Does see this as a business and the house should be treated as such. Jones – that many people in that size building doesn't make common sense. Aarestad – reminded the Board they are faced with what is before them.
- K. Mike Kaczmarek – County Commissioner Dist. 5 – addressed a potential influential comment that was made by Attorney Kryzer. Any decision can be litigated and it should not be a fear that influences a

decision. Members can follow the process and decision making knowing that any decision can be litigated. As member Vick stated either decision of this Board can be litigated.

- L. Barry Rhineberger – Wright County Zoning Administrator – by the State and Federal code this has to be looked at as a single family residential structure. He does not have the ability to say handicap ramps need to be installed. In this process a permit was received and the house was inspected for proper ingress/egress, CO2, and smoke detectors. It was not an in-depth commercial housing type of inspection but by the State and Federal code the home is viewed as single family residence. Noted that the home was remodel with the addition of 2 basement bedrooms, without a permit. Part of the application process was a requirement to obtain the proper building permit and pass the appropriate inspections. Vick stated he appreciates all the work that Mr. Rhineberger did and feels that he does go by the book but his opinion is that the book needs to be changed. Rhineberger – doesn't disagree. There are a lot of things in the 196 pages of ordinance that might need updating and revisions. That is something that is worked on over time. In this case it would be starting with State and Federal legislation to change the rules. Right now, he does not have the ability to say that "you get nothing here" when the State and Federal law states that some type of reasonable accommodation needs to be allowed. By State and Federal code, he cannot get rid of the house. Vick – but the Board can vary from that? Kryzer stated Federal law cannot be varied. Vick – here for an appeal so the Board can rule either way. Kryzer – option is to reverse or affirm Mr. Rhineberger. Vick – he would like to see the home handicap accessible. He is on the handicapped persons side with his thinking and as mentioned he feels it would be a disservice to the tenants. Kryzer – specific disability is alcoholism not talking paraplegic or quadriplegic. Aarestad – these are vulnerable adults. The attorney representing them did state they are incapable to manage and live on their own. Which to him heightens the need for accommodation and making sure they are protected. Vick – if they are handicapped, they would be required to be accepted into the facility.

- M. Vick motioned to reverse the Zoning Administrators decision and rescind the reasonable accommodations, as provided by the Zoning Administrator. Motion seconded by Aarestad.

VOTE: Vick & Aarestad NAY: Mol, Jones & Neumann
MOTION FAILED

- N. Mol moved to continue the request and direct staff to draft findings affirming the Zoning Administrators decision. Motion seconded by Jones.

DISCUSSION: Vick questioned the next avenue this could be taken. Feeling is that if they do the appeal, it would be easier. Kryzer – they would speak with Representative Emmer. Mol – with the people on this but the law does have to be upheld. The law is what Mr. Rhineberger and this Board have to uphold. This Board does stretch things at times but also does try to uphold the Wright County Ordinances. He personally has an adult special needs so he does get it but in the same token the laws and the ordinances need to change. This Board has to uphold the ordinances as laws the best they can and it is what they do each month at these meetings. He does agree this might not fit in this particular location but the laws are there. Vick – thinking if this was a good way to get a foot in the door to talk with the County Commissioners to get the laws changed. Mol – the doors are always open to the County Commissioners as it is for Mr. Rhineberger. There are current ordinances being reviewed and changed right now. Rhineberger – the decision by this Board, once adopted, is appealable to District Court within 30 days of the decision.

VOTE: CARRIED, Vick & Jones opposed

Kryzer – pursuant to Board of Adjustment policy the record and this proceeding will be closed to further oral or written comments. Staff will draft findings, as directed, and present on November 3rd meeting. There will be no further notices mailed. Chairman Aarestad so noted.

Meeting adjourned at 12:07 p.m.

Respectfully submitted,

Aaron Ogle
Planner

AO:sld

Cc: Board of Adjustment
Applicants/Owners
Twp. Clerks