

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: April 12, 2024

MINUTES

The Wright County Board of Adjustment met on Friday, April 12, 2024, at 8:30 a.m. 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: Dan Mol, Russ Greninger, Dan Vick & Bob Neumann. Representing the Planning & Zoning Office was Aaron Ogle, Planner. Greg Kryzer, Assistant County Attorney, legal counsel arrived at 8:54 am.

ACTION ON MINUTES FOR THE MARCH 22, 2024 MEETING

On a motion by Mol, seconded by Greninger, all voted to approve the minutes for the March 22nd, meeting as printed.

1. DOUGLAS EIDEN – Continued from 3/22/24

LOCATION: 3918 Cty Road 12 S – Lot 2, Block 1, County Highway 12 South Estates, Section 24, Township 119, Range 26, Wright County, MN (Marysville Twp.) Tax # 211-029-001020. Property Owners: Douglas D. Eiden & Kimberly L. Harpestad

REQUEST: Variance as regulated in Section 155.026, 155.003(B)(1), and 155.047(F)(2) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a storage building that would exceed the total detached building area allowed, exceed the maximum sidewall height, and be located within the road building setback.

Present: Doug Eiden

- A. Ogle displayed maps and plans while reviewing the request details. The request is located on County Road 12 South in Marysville Township. The property is 4.17 acres and zoned Agriculture/Residential. The request is to construct a 40 ft. x 64 ft. storage building with a 544 sq. ft. covered porch for a total of 3,104 sq. ft. with a 16 ft. sidewall and located 100.1 ft. from the centerline of the road was continued from the March 22nd meeting so the applicant could meet with the Township. A variance is required for the storage building as the total detached building area on the property would be 3,524 sq. ft. whereas 3,200 sq. ft. is the maximum, the sidewall height would be 16 ft. whereas 14 ft. is the sidewall height maximum, and the proposed location would be 100.1 ft. from the centerline of the county road whereas 130 ft. is required. The Township approves of the request because the applicant has a berm of trees 65 ft. from the centerline of the road, the variance falls in line with other variances in the area, the higher sidewalls of 16 ft. are not visible from the road, the property has a small temporary carport with no foundation that is putting the applicant over the square footage, the building blends in the area with other properties, and all houses on that side of the road all have a shed. No written public comment was submitted.
- B. Eiden addressed the site plan and explained the location of the proposed shed in relation to the existing home, highway, and utility easement area.
- C. No public comment.
- D. Mol questioned if the existing carport was removed would the building be within the allowed limits. Eiden stated he does not want to give up that storage space. Mol stated he would like to see the carport removed. The road distance makes sense with the mentioned challenges of the property but also would like to see the proposed building moved into the area of the carport. Ogle – it should be noted that a portion of the existing carport is in the utility easement.
- E. Vick agrees the allowed 3,200 sq. ft. limit should be followed. Questioned if there will be two access points of the highway. Eiden – no, due to a 1983 ruling they are only allowed the shared driveway. The Highway Department is okay with the 100 ft. setback.
- F. Greninger – would be in favor of the plan if the carport is removed.

- G. Neumann agrees the carport needs to come down so that property would be within the allowed 3,200 sq. ft. No problem with the 16 ft. sidewall due to the location and surrounding area but does want to see the 3,200 sq. ft. limit being met.
- H. Aarestad feels that the Township did a good job providing reasoning and explaining why they approve. He has no issues with height but would also like to see the carport removed.
- I. Mol moved to approve the construction of a 40 ft. x 64 ft. (2,560 sq. ft.) storage building with a 544 sq. ft. covered porch (total of 3,104 sq. ft.) with 16 ft. sidewalls and is located 100.1 ft. from the centerline of the road CONDITIONED the existing carport be removed to get below 3,200 sq. ft. of detached building area. Site plan noted Exhibit A and building plans noted Exhibit B. Motion seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

2. **PATRICK LIEBSCH** – New

LOCATION: 13488 77th St NW – Lot 17, Bay View First Addition, Section 26, Township 121, Range 28, Wright County, MN (John - Southside Twp.) Tax # 217-017-000170. Property Owners: PATRICK & LEANNE LIEBSCH

REQUEST: Variance as regulated in Section 155.026, 155.003(B)(1), and 155.049(F)(2) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a storage building that would exceed the total detached building area allowed and be located within the road building setback.

- A. Ogle displayed the proposed site plan as he reviewed the request. The property is 0.85 acres, zoned Urban Rural Transition, and located on Lake John which is classified as Recreational Development. A lot line adjustment was granted in 1996 to split Lot 16 and attach to the adjoining lots and variance to allow a 28 ft. x 73 ft. addition to the existing home which included a three-car garage and living space. A 2015 variance granted a 16 ft. x 20 ft. addition with a walkout basement that would be 39.1 ft. from the ordinary high-water line and a rain garden be installed based on the concept plan approved. In 2016 the Board approved the amendment of the 2015 approval allowing a 4 ft. x 8 ft. one-level entry addition on the backside of the new addition with all conditions from previous approval still in effect which included a rain garden that was located NE of the existing garage with an outlet going towards the lake. This request is to construct a 28 ft. x 32 ft. (896 sq. ft.) storage building located 51 ft. from the centerline of the road. A variance is required for the storage building as the total detached building area on the property would be 1,932 sq. ft. whereas 1,600 sq. ft. is the maximum and 51 ft. from the centerline of the road whereas 65 ft. is required. The Township approves of the request due to the lot coverage being good, the shed is not impinging on neighbors' site lines, and the new shed will improve the property. A neighbor commented that they are in favor of the request as the existing building is rather “dilapidated” and are happy the property owners continue to upgrade the property. Another neighbor said they would like the Board to consider the building location so that it would have an easy and direct approach to Norris Ave and avoid any possible property line complications. The survey submitted had an update in 2021 but the total property area and lot coverage were not updated. The final staff report provided updated figures as noted.
- B. Liebsch stated the existing detached garage has no frost footings so he plans to build a new shed with proper footings and clean up the look of the property. There are larger sheds on Norris Ave. but he has decided to go with as large as he would need to fit his pontoon, which is 28 ft. x 32 ft. The position of the proposed shed would be further from the road than the existing building. When finished the plan is to get a new survey.
- C. No public comment.
- D. Vick questioned why not use the longer driveway versus coming off the curve. Liebsch stated there is a hill drop-off in that area. They did look at the property and as proposed would be the best position. Vick – main concern is the driveway.
- E. Greninger – no comment or questions.
- F. Neumann – there is 44 ft. to the south and even with topography as an issue the opportunity is there to excavate dirt and move the shed 15 ft. As presented his vote will be no. By moving back 15 ft. the existing driveway might be usable and therefore get access off the curve. Liebsch – the drop off would be roughly 20-22 ft. down to the long driveway.
- G. Mol – agrees that there is room to move the shed and get more off of the road. Making the shed larger, with more coverage, how will rain runoff be addressed? Liebsch – currently the water goes into the drain pit so nothing is planned to change and he wants to ensure new drainage isn’t created. Moving back goes into the hill and is quite a bit of a drop-off. Did look at pivoting but the overhead electrical line goes by the front of the existing shed. Mol – there is room to get back off the road so a setback variance would not be needed.

Again, there are options with excavation, and power lines can also be moved. Ogle – if building overage wasn't part of the variance and it was strictly a setback issue, there is a statement in the ordinance that allows for the average road setback within 300 ft. to be used. In this case, the average road setback within 300 ft. of the referenced property is approximately 56 ft. whereas 51 ft. is being proposed.

- H. Aarestad – agrees with the Township and has no big concerns but good points were made by members Mol and Neumann. Feels that if moved back there would be a large tall wall and not fit the area. As presented, he can go along with the request.
- I. Mol – asked for the amount over on building coverage. Ogle – proposed a total of 1,932 sq. ft. whereas 1,600 sq. ft. is allowed, so over by 332 sq. ft. Mol questioned if there is a way to reduce the size and at the same time help with setbacks. Liebsch stated this is the bare minimum he can do for size. The existing garage by the home has a 4 ft. breezeway between the garage and home but there are no frost footings so they are not able to attach to the house, which would help their case. The depth and width of the proposed garage are what he needs so his pontoon will fit.
- J. Vick – the shed could be brought closer to the driveway and the setback variance is not needed. He does not like that the shed comes out to a curve in Norris Ave. Feels that there is more planning that could go into getting the shed built into the hill, using the single entrance off the curve, and therefore not requiring a variance for the road. Liebsch – did discuss that as an option and worry is affecting the drainage.
- K. Aarestad stated the Board has made comments where it is hard to tell which way the vote will go. There is time to look at a redesign based on the concerns and comments or allow the Board to vote. Liebsch – would like the Board to vote. Mol asked if there is a chance to change the size so that the building is more narrow. Liebsch – pontoon is 30.5 ft. long so the 32 ft. would be needed. The existing shed is 24 ft. and his wish is 28 ft. so that extra 4 ft. can be used as storage. Mol – this Board does not normally take into consideration the use of the shed and his concern is allowing it because the pontoon needs to fit. Aarestad – feels each request is discussed individually. Mol – where is the practical difficulty? The hill is a challenge but there is equipment that does move dirt. Not narrowing or changing building size is a concern. He would like to see the building come down to within the allowed coverage. Ogle – reducing the width by 4 ft. would drop about 128 sq. ft., still over but closer. Aarestad feels a little reduction might help the case. Liebsch stated he could go down to 26 ft. Mol – his concern is allowing a variance based on what is to be stored in a shed.
- L. Neumann questioned if other buildings could be reduced. Liebsch – no.
- M. Neumann moved to close the public hearing and direct counsel to prepare findings based on the record and discussion, consistent with the denial of the request, and continue the matter to the May 3rd hearing. Seconded by Vick.

VOTE: Mol, Neumann, Vick & Greninger NAY: Aarestad

MOTION CARRIED

3. **TOM LUNDEEN** – New

LOCATION: 14187 68th St NW – Lot 3, Sylvia Cedars Resort, Section 34, Township 121, Range 28, Wright County, MN (E. Sylvia - Southside Twp.) Tax # 217-059-000033. Property Owners: Trevor Olean

REQUEST: Variance as regulated in Section 155.026, 155.003, 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 remove the existing home and construct a new home/deck within the side yard and shoreland building setback. The home's footprint is under the 800 sq. ft. minimum required.

Present: Tom Lundeen

- A. Ogle displayed the proposed site plan and reviewed the request details. The request is located in Southside Township. The property is 0.13 acres, zoned Urban Rural Transition, and located on East Lake Sylvia which is classified as General Development. Existing impervious coverage is 14.9% with the proposed building coverage 14.9% and proposed impervious surface coverage 21.8% which includes the removal of the outhouse and shed that are indicated on the site plan in red. The request is to construct a two-story 768 sq. ft. home/deck that is 5.4 ft. from the north side yard, 10 ft. from the south side yard, 46.2 ft. from the shoreland building setback, and serviced by the existing holding tank. A variance is required for the new home/deck as it would be 5.4 ft. from the north side yard and 10 ft. from the south side yard whereas 15 ft. is required; 46.2 ft. from the ordinary high-water (OHW) of a General Development lake whereas 75 ft. is required; and the footprint of the home would be 768 sq. ft. whereas 800 sq. ft. is the minimum on one level. The Township does not approve of the request. The Township noted the 5.4 ft. setback is too close and would like to see the home narrower and longer to get at least 10 ft. from the side yard. A neighbor is not in favor of the request and would like the rules enforced with the property held to all setback restrictions on the old building footprint. Another commented that due to the constraints of the small lot, they feel the request is a reasonable solution.
- B. Lundeen provided the Board with a handout and used the document camera to review. The building is an old cabin that needs to come down. There is a 10 ft. walking easement on the southern portion of the property that restricts that side yard setback. The county has a requirement that a home must have a 24 ft. minimum width, so those two reasons are why the home is squeezed to the north line. The home would be roughly 50 ft. from the northern neighbors home and 30-40 ft. from the southern neighbors home. Lundeen believes he meets the impervious surface coverage with the proposed home. With an approved holding tank there is an outhouse that he would like to remove.
- C. Public comment.
- Bill Johnson – neighbor to the north. The existing cabin is 14 ft. from the line. He has had personal experience with buildings too close to the property line with three cabins burning because of proximity to each other. He feels that this is the time to require a 15 ft. setback. The buyer knew what was being purchased. He would like to see 15 ft. enforced or at a minimum existing footprint as he doesn't want them too tight together.
- D. Ogle – ordinance does state a single-family home must be 24 ft. minimum in width but, in this case, the proposed building still doesn't meet the 800 sq. ft. requirement. The lot is 40 ft. wide lot and if maintaining a 10 ft. setback to the south and 15 ft. to the north line there would be approximately 15 ft. of width left for the home, which would still require variances.
- E. Greninger questioned if anything could be done to improve the setbacks. Lundeen – the architect did indicate the building can be narrowed and made longer but he wanted to hear comments from the Board before making adjustments. Greninger – would like to see the home narrowed and new plans presented.

- F. Neumann questioned the length of the lot. Lundeen – 150 ft. Neumann – when he looks at new construction why can't this home meet the 75 ft. requirement? Lundeen – nothing. The architect and surveyor stated the house could be moved. They proposed the new home on top of the existing foundation and to be aligned with neighboring cabins. Not sure he can meet the 75 ft. but there is room to move the home back. Neumann – at 40 ft. wide the lot is tight and makes things tough. Feels some of these narrow lots might make better camper lots versus cabin lots. Five ft. is tight to the line, he would like to see 7 ft. and ideally 15 ft. Surprised an additional 32 sq. ft. was not added onto the home to get the 800 sq. ft. requirement. Neumann questioned how far the south neighbor is from the property line with Lundeen estimating 10-14 ft. Neumann feels the sidelines are tough and he is not sure which way his vote will go. If the opportunity is there to move back from the lake and the more variances that aren't part the of request the better chances are for him to approve. A new home with three variances, on this size of lot, is not something he can go along with. Could possibly agree with side yard setbacks at 7 or 10 ft. but the compromise would be back from the lake and home at 800 sq. ft. Lundeen – building a more narrow home to get to the 800 sq. ft., back more off of the lake and be 7 ft. to the north line and 10 ft. to the south would be acceptable for him.
- G. Mol – he would like to see 10 ft. on both sides, moved back from the lake, and meet the 800 sq. ft. There is a chance to have a side setback and home width variance. He could maybe go along with 7.5 ft. from the north line but as that distance gets larger the width of the home decreases and a certain width of a home is needed to function. He shares the concern of putting homes in close proximity and he needs good justification to allow. The Township disapproved of the request. Ogle – if the home is positioned 10 ft. from either sideline, 75 ft. from the OHW, and meets the 800 sq. ft. requirement the home would be pushed closer to the holding tank and therefore require a variance to that.
- H. Vick stated he wants to see the home at least 9.4 ft. from the north sideline and get to 75 ft. from the deck to OHW.
- I. Mol moved to continue the request until the May 3rd meeting so the applicant could re-assess the plans proposed. Discussion revolved around: side yard setback closer to 9.4 ft. from the north side yard; lake setback meeting the required 75 ft.; 800 sq. ft. minimum footprint on one level; and distance to holding tank assessed. Seconded by Vick.

VOTE: CARRIED UNANIMOUSLY

4. **KRIS & MEG DIMERCURIO** – New

LOCATION: 7583 Pilger Avenue NW – Registered Land Survey #9 & Part of Gov't Lot 4, Section 28, Township 121, Range 28, Wright County, Minnesota. (W. Sylvia – Southside Twp.) Tax #217-000-281302 & 217-067-000040 Property Owners: Kristopher S Dimercurio & Megan E Dimercurio

REQUEST: Variance as regulated in Section 155.026, 155.050(F)(2), and 155.057(E)(1) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a new home and detached storage building within the road and shoreland building setbacks.

Present: Meg Dimercurio, Bernie Miller with MSTS, and Phil Kothrade with JPC Custom Homes

- A. Ogle displayed the site plan and reviewed the request. The request is located on Pilger Ave NW in Southside Township. The referenced property was granted a road setback variance in 1995 to allow up to 51 ft. from the centerline of the road; and a variance in 2021 allowed a home 65.8 ft. from the ordinary high-water and storage building 66.3 ft. from the ordinary high-water with the home 55.6 ft. from the centerline of the road with a storage building 55 ft. from the centerline. This request is to construct a new home with a footprint of 4,063 sq. ft. that has 488 sq. ft. of attached deck/stairs located 65.8 ft. from the ordinary high-water of the lake and 55.6 ft. from the centerline of the road. The request is to also construct a 36 ft. x 54 ft. (1,944 sq. ft.) storage building that is 66.3 ft. from the ordinary high-water (OHW) of the lake and 55 ft. from the centerline of the road as traveled. A variance is required to construct the proposed new home 65.8 ft. from the OHW of a General Development lake as 75 ft. is required and 55.6 ft. from the centerline of a local road as 65 ft. is required. A variance is also needed to construct the proposed storage building 66.3 ft. from the ordinary high-water of the lake as 75 ft. is required and 55 ft. from the centerline of a local road as 65 ft. is required. The Township approved the request due to a stormwater management plan, the 2021 variance approval and lot coverages met. No written public comment was received.
- B. M. Dimercurio stated that since 2021 the home plans have been adjusted and reason back before the Board.
- C. Miller – the proposed house is now bigger and taller with no other big changes to the home footprint. This plan will require less material moved. The shed, driveway, and stormwater management plans have not changed. P. Kothrade – home did get taller but is still within the 35 ft. maximum height limit.
- D. No public comment.
- E. Neumann questioned the number of bedrooms on the original plan versus proposed affecting the septic system. Miller – the septic system will meet the requirements and is already installed. If needed the existing system could also be added onto. Ogle – the new plan shows 4 bedrooms with other rooms that could be bedrooms but are labeled differently. Miller – the system is twice as big as what the state requires because Wright County rules require a system to be overbuilt. He does not have a concern but there is potential to address if the Board feels a need.
- F. Mol – recalls this item from 2021 and likes to see that setbacks staying where approved at that time. He does not see a problem with the proposed request.
- G. Vick is concerned with the height of the new plan. At 65 ft. from the OHW, he feels the home will be out of place and when looking from the lake will look very tall in appearance. Aarestad – this is an inlet area and is almost sealed off from the lake. Miller – home is in a cove with 60 ft. of cattails out front and does not feel the view from the lake will be impactful.
- H. Greninger – no concerns.

- I. Aarestad stated he has no concerns with the request. He usually has a concern with height and look from the lake but for him, this case the presence from the lake is not a concern.
- J. Mol – even with a request asking for other variances the height does meet the requirement. Vick questioned if there is a 2-story limit for homes. Ogle – this building does meet the home requirements as a 2 ½ story because of walkout basement. Even though not specifically needing a variance a conversation about height can be part of the discussion.
- K. Neumann moved to approve the construction of a new single-family home with a footprint of 4,063 sq. ft. that has 488 sq. ft. of attached deck/stairs located 65.8 ft. from the Ordinary High-Water (OHW) of the lake and 55.6 ft. from the centerline of the road AND a 36 ft. x 54 ft. (1,944 sq. ft.) storage building that is 66.3 ft. from the OHW of the lake and 55 ft. from the centerline of the road as traveled. Site plan noted Exhibit A, including notes related to stormwater management, and building plans noted Exhibit B. Seconded by Mol.

VOTE: Greninger, Mol, Aarestad, Neumann NAY: Vick

MOTION CARRIED

5. **BONNIE KILIAN** – New

LOCATION: 3951- 59TH St. NW – Lot 7, Maple Grove Beach, according to plat of record, Section 4, Township 120, Range 26, Wright County, MN. (Maple Lake – Maple Lake Twp.) Tax #210-015-000070 Property Owner: STEPHEN P & BONNIE S KILIAN

REQUEST: Variance as regulated in Section 155.026, 155.006, and 155.049(F) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a storage building that would be within the side yard and road building setbacks. Also, the proposed building and impervious lot coverage would exceed the maximum allowed.

Present: Paul Kilian and Bonnie Kilian

- A. Ogle displayed the proposed site plan and reviewed the request. The property is 0.17 acres, zoned Urban Rural Transition, and located on Maple Lake which is classified as General Development. Existing building coverage is 18.6% and existing impervious surface is 28.4%. Proposed building coverage is 20.2% and proposed impervious surface coverage is 29.7%. A variance was granted in 2021 to allow a holding tank 1 ft. from the property line and 1 ft. from the home. The request is to construct an 18 ft. x 20 ft. storage building 1.0 ft. from the east side yard and 17.5 ft. from the centerline of the road as traveled which is 2.5 ft. from the right-of-way. A variance is required to construct an 18 ft. x 20 ft. storage building as the proposed location is 1.0 ft. from the east side yard whereas 10 ft. is required and 17.5 ft. from the centerline of the road whereas 65 ft. from the centerline is required. The building coverage would be 20.2% whereas 15% is the maximum and impervious surface coverage would be 29.7% whereas 25% is the maximum. The Township approved the new garage only if they take one of the sheds down to minimize their coverage. The Township also mentioned that due to a miscommunication between them and the applicant on how close the proposed garage is going to be to property lines, the Township board members would like to revisit this request at their next meeting on April 16th. The Soil and Water Conservation District (SWCD) requested the applicant not be allowed to increase building or impervious coverage since it would put them over the allowed amount. SWCD noted that if the variance were to be allowed, they are made to decrease both coverages elsewhere on the property and stay under the maximum allowed with the potential storage building.
- B. P. Kilian – the shed on the west corner will be removed to get hard surface numbers down. Ogle – the Township and SWCD both commented about coverage. The total area above OHW is 7,511 sq. ft., with building coverage allowed at 1,127 sq. ft. and existing is 18.6%, impervious coverage is currently at 24.8%. If adding the proposed garage and leaving only the garage there would be 164 sq. ft. building coverage available, at closer to 17.2%. The proposed garage and house would leave 587 sq. ft. left of impervious coverage allowed, which could be a deck, patios, walkway, and driveway. P. Kilian – they can remove a paver walkway to get impervious down and are happy to do what they can to make it work.
- C. No public comment.
- D. Mol – Township asked to review. He feels the need to go in the right direction in taking more away, not adding more, and getting as close as possible to the 15% and 25% limitations. A lot is going on with multiple sheds and concrete with an ask to add. As presented, he would not be in favor. Concern is also there with the distance to the lot line and if there is a way to move the garage from the side lot line. At 1 ft. it is hard to maintain without going on the neighboring property.
- E. Vick agrees with comments from member Mol. Questioned the driveway location. P. Kilian stated they weren't going to do a driveway and leave it as grass. The building is more for lake storage not parking a vehicle. Vick – eventually a new buyer will install concrete and use it differently. P. Kilian stated they could include a gravel driveway on the survey. Vick – would like to see a driveway on the plan and at least a 5 ft. setback from the property line. There are a lot of ways to bring down coverage. P. Kilian – remove the shed, take down the deck, and also eliminate some sidewalks.

- F. Greninger stated he has the same concerns; the shed should be moved and coverage brought down. The item should be continued for further review. Neumann and Aarestad agreed.
- G. Ogle questioned the applicant if the Township had made contact with them regarding meeting again on April 16th. B. Kilian stated they were not contacted but they can make it to the April 16th meeting. P. Kilian – plans could be revised quickly.
- H. Mol moved to continue the request to the May 3rd meeting so the applicant could: speak with the Township regarding the proposed distance to property lines; include a driveway on the plans; re-assess the proposed distance to the side yard; and reduce proposed lot coverages. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

Aarestad called for chairman's break at 8:57 am with the meeting reconvening at 9:05 am.

6. **ARTHUR THOMPSON** – New

LOCATION: 1516 Cty Road 37 NE – S240.50 FT OF W208.50 FT MSD ALG W&S LNS OF SW1/4 OF SE1/4, Section 29, Township 121, Range 25, Wright County, MN. (Monticello Twp.) Tax #213-100-294301 Property Owner: ARTHUR T THOMPSON & ANNE LIESER

REQUEST: Variance as regulated in Section 155.026 and 155.048(F)(2) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct an addition to the existing home that is within the road setback.

Present: Arthur Thompson

- A. Ogle displayed the proposed site plan and reviewed the request and property details. The property is 1.15 acres and zoned General Agriculture. The request is to construct a 20 ft. x 26 ft. addition to the existing home that is 100 ft. from the centerline of the county road. A variance is required to construct a 20 ft. x 26 ft. addition to the existing home 100 ft. from the centerline of a county road whereas 130 ft. is required. The Township approved the request. The Wright County Highway Department is good with the proposed setbacks for the proposed home addition.
- B. No comment from Thompson or the public.
- C. Vick questioned if the septic system was compliant. Thompson – septic system is roughly 100 ft. north of the home. Vick – County Highway is okay with the proposal. Thompson confirmed. Vick stated he approves of the proposed plan.
- D. Greninger and Neumann stated they could go along with the proposed plan.
- E. Mol stated practical difficulty is the home was built before setback standards and a modest addition is proposed. Aarestad agreed.
- F. Vick moved to approve a 20 ft. x 26 ft. addition to the existing home that would be 100 ft. from the centerline of the County Road. Site plan noted Exhibit A and building plans noted Exhibit B. Seconded by Mol.

VOTE: CARRIED UNANIMOUSLY

7. **JACOB ROBOLE** – New

LOCATION: 2750 102nd St SE – PART OF THE NORTH HALF OF THE NORTHEAST QUARTER, Section 28, Township 118, Range 25, Wright County, MN (Franklin Twp.) Tax #208-200-281204. Property Owners: Jacob Robole & Samantha Meyer

REQUEST: Variance as regulated in Section 155.026 and 155.003(B)(1) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to add onto an existing storage building that would exceed the maximum sidewall height and exceed the total detached building area maximum.

Present: Jacob Robole

- A. Ogle displayed the proposed plan as he reviewed the request. The property is 4.70 acres and zoned General Agriculture. The request is to construct a 2,710 sq. ft. addition to an existing 2,800 sq. ft. storage building with 16 ft. sidewalls. A variance is required to construct a 2,710 sq. ft. addition to the existing 2,800 sq. ft. storage building with 16 ft. sidewalls because the total detached building area maximum for properties 2.5-4.9 acres is 3,200 sq. ft. with 14 ft. sidewalls. The Township motioned to remain neutral on this request and a public comment was made that said the height of the new addition will be the same height as the existing storage building.
- B. Robole – knows the limit is 3,200 sq. ft. and decided to propose what he would build if there wasn't a limit and go from there based on where the Board is willing to be flexible. Kryzer questioned the practical difficulty. Robole – based on location. He is under 5 acres and even 10 acres where there is no limit. Home is in a heavily agriculture area with most lots being 10 acres or more and only 2 other homes under the 10 acres. Understanding rule is more in place for residential areas with smaller lot sizes. Kryzer – what was just stated would apply to all 5-acre entitlement divisions in the county. What makes this particular request a practical difficulty? Robole – lot size created under 10 acres in the AG district. The Township did state that they will remain neutral as this is a county decision, not a township decision. Based on the amount of complaints they get regarding outside storage they would be happy to see large buildings where things can be put away.
- C. Public comment opened.
 - Michelle Sandquist questioned if this is for public, personal use, or business use. Under the assumption this could be for business use and then in violation of another ordinance. Just last year there was a business in Franklin Township that was an ordeal.
- D. Robole - very heavy hobbyist and does sell some items. Most of the time it is not income and he carries a full-time job. Money from his hobby sales is put back into a new tool or other hobby item.
- E. Greninger – Questioned if 14 ft. sidewalls can be done. Robole – 16 ft. was proposed as it would match what is existing.
- F. Neumann questioned how long the property has been owned. Robole – moved into the home in October. Neumann – right away asking for a variance that is way over what is allowed. If this was something that was desired another property should have been purchased. He does not see a practical difficulty and does not see a reason to approve over 3,200 sq. ft.
- G. Mol – shares the same thoughts. These lots were split and made these sizes with the limits applied for a reason. Also, there are concerns about a business starting in a building of the proposed size. He can not go along with what is proposed.

- H. Vick – if at 5.1 acres what would be the building limit? Ogle – at 5 acres would be allowed 4,000 sq. ft. of building coverage and a 16 ft. sidewall. The existing building already has a 16 ft. sidewall and was approved that way. Vick would be okay with approving a maximum of 4,000 sq. ft.
- I. Aarestad – what is proposed is doubling the size of a commercial-type Ag building on a small residential lot. This Board does have some wiggle room but this request is way out of that realm. The feeling from the Board discussion is the request might not pass as presented. There is an option to withdraw, redesign and come back to review, or allow a vote. Robole – is hearing Board is pretty set at 3,200 sq. ft.
- J. Vick moved to dismiss the matter without prejudice, at the applicant's request. Greninger seconded.

VOTE: CARRIED UNANIMOUSLY

8. **DENNIS EPPLE** – New

LOCATION: 5665 & 5410 State Hwy 25 SE – part of the N ½ of the NE ¼ of Section 31, Township 119, Range 25, and part SW ¼ of the NW ¼ also part of the NW ¼ of the SW ¼, Section 32, Township 119, Range 25, Wright County, MN (Unnamed Ag Trib. - Franklin Twp.) Tax # 208-300-314100 & 208-300-322300. Property Owners: James W. Eppler and Dennis A. Eppler

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 PID 208-300-322300 to PID 208-300-314100.

Present: Dennis Eppler

- A. Ogle displayed the proposed plan and reviewed the request. The request is located off State Highway 25 SE in Franklin Township. Parcel 208-300-322300 is approximately 60 acres and parcel 208-300-314100 is approximately 77 acres. Both properties are zoned General Agriculture. The request is to add 22 acres from PID 208-300-322300 to PID 208-300-314100. No variances are being requested as part of this lot line adjustment request. There will be no movement, transfer, creation, or reduction of entitlements as part of this request. One entitlement would be left on the remainder of parcel 208-300-322300. The Township and a neighbor approved of the request.
- B. No comment from Eppler or the public.
- C. Neumann questioned if all of -322300 is owned. Eppler stated yes. Neumann questioned the point of joining when they are already owned together. Eppler – would like to keep 22 acres in agriculture and sell to his cousin, who is across the highway. Neumann questioned plans for the remainder of -322300 and what would occur with entitlements. Eppler stated he plans to continue living on the property and an entitlement will not go with the 22 acres. Neumann asked if there is a natural divide where -322300 is proposed to be divided. Eppler – that is the quarter-quarter line.
- D. Mol stated he has no problem with the request as the line follows the quarter-quarter line and as of now being adjoined with property across the road is staying agriculture.
- E. Vick – asked if there was water that borders the 20 acres. Eppler stated there is a creek.
- F. Greninger questioned the location of entitlements. Eppler – to the east of the creek is his sister's land with two entitlements and another parcel he owns holds an entitlement, that is not part of today's discussion. Is okay with the proposed as it follows the quarter-quarter line.
- G. Aarestad – with the 22 acres being restricted and the quarter-quarter line being followed, he has no objections with the request.
- H. Mol moved to add 22 acres from PID 208-300-322300 to PID 208-300-314100 CONDITIONED that it be subject to survey and administrative order. Site sketch noted Exhibit A. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

9. **LAWRENCE SMITH** – Continued from 3/22/24

LOCATION: XXXX, 9602 & 9950 Cty Road 8 NW – N ½ of the NE ¼ and part of Gov't Lot 1 and 2, Section 18, Township 121, Range 26, Wright County, MN (Millstone– Silver Creek Twp.) Tax # 216-000-181100, - 181101 & 181402. Property Owners: Terryl R Schermer & Susan M Schermer and Lawrence J. Smith & Joleen M. Smith and Zechariah T Bursch & Krista M Bursch and Elinore Opitz & Mathew Hopfer

REQUEST: Variance as regulated in Section 155.026 and 155.048(G) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow a “1 per 40” entitlement division that exceeds the maximum prime soils and maximum total acreage allowed and expand an existing “1 per 40” entitlement division over the maximum acreage allowed.

Present: Larry Smith, Zach Bursch, and Elinore Opitz

- A. Ogle displayed the proposed plan as he reviewed the request. The request is located off County Road 8 NW in Silver Creek Township. The properties involved are zoned General Agriculture and located within the shoreland area of Millstone Lake. The request for a 16.8 acre “1 per 40” entitlement division that included 9 acres of prime soils was continued from the March 22nd meeting so the request could be re-notified based on the updated proposal made at the March 22nd meeting. The updated proposal is to allow a “1 per 40” entitlement division that exceeds the maximum prime soils and maximum total acreage allowed and expand an existing “1 per 40” entitlement division over the maximum acreage allowed. A variance is required for an entitlement division that exceeds 10.0 acres in total size and/or 2.5 acres of prime soils. In 1989 the Board approved a 3.5 acre “1 per 40” entitlement division which was later expanded to 8.6 acres in 2004 by the Board which left one entitlement on 216-000-181100. The Township approves of the request. No written comment from the public was submitted.
- B. Smith – Silver Creek Township representative is present, who supports the request.
- C. Opitz – property owner to the south with a signed purchase agreement. Has been renting the acreage for 9-10 years and planted as permanent pasture with her goal to continue pasture use.
- D. No public comment.
- E. Mol – familiar with the property. Feels that dividing for a new home site would be an infringement on the existing farms, as proposed is a better option. It would be his suggestion the properties must stay owned in common or merged into a single parcel and be required to come before this Board for any future divisions. The county road is a natural split and the proposal makes sense and is a good thing.
- F. Ogle – under the impression from our conversation before re-noticing the request that roughly 3.75 acres will be tied to the property to the north and the remaining acreage will be a separately saleable parcel done as an entitlement division, which happens to be owned by the same person to the south. Opitz stated combining would be simpler for a mortgage. She would be okay not having the parcel merged into her existing parcel. Smith – does have a purchase agreement with Zach, the north owner, at +/- 4 acres. Questioned if prime soils are a factor for the 12 acres if the 4 acres to the north is sold. Mol – feels that because each parcel is going to stay with an existing farm operation the prime soils aren't an issue point. If split for a home to be built would be a different conversation. This is a unique situation where the lot line adjustment is causing both new parcels to be tied with existing farm sites. Ogle – lot line adjustments and entitlement divisions are different documents. Smith – the entitlement should go with the lakeside parcel. It makes no sense to stay on the full Ag land side of the division.
- G. Vick – plan is to sell the parcel for a home? Smith – there is an entitlement that he wants to stay with the parcel on the east and go with what Opitz is planning to purchase. Ogle – if approved as an entitlement division the parcel could be sold separately, as a buildable lot. Vick – would want to ensure that if the 12

acres were to be built on the full 12 acres is not allowed for a house site but the Board would have to approve any smaller divisions. Ogle – if the Board created the 12 acres any adjustments would need to be reviewed by this board. Mol – even with the entitlement on the 12 acres, with a condition requiring be owned in common, any future split cannot be completed without coming back to this Board for review and approval.

- H. Opitz stated she is dedicated to keeping the land for agriculture. She has no intention of using the entitlement in even the next 30 years and her goal is to persevere as much Ag land as possible. It would be difficult to turn the property into tillable land and the best use is pastureland and why the proposal is as presented. Vick – because of the prime soils he doesn't want to see a home built on the 12 acres. Could there be a condition added before being allowed to build a home? Ogle – requiring to be owned in common would not allow for a second home on a single parcel, any division as part of this would be required to be heard by this Board.
- I. Mol – his goal is to keep the property in Ag use and required to come back for the Board regarding any future divisions. Discussion continued among the members with the decision being made that there is a way with a Deed Restriction and two Administrative Orders that will allow for the division, entitlement assignment, and future requirement of Board review for divisions.
- J. Greninger – no comment.
- K. Neumann stated he has a conflict and will abstain from comment and voting.
- L. Mol moved to approve the expansion of an existing entitlement division (PID 216-000-181101) up to 4 acres with a CONDITION: subject to survey with a legal description of divisions and remainder of parcel, deed restriction, administrative order or owned under a single tax parcel; a lot line adjustment to attach up to 13 acres to PID 216-000-181402 which includes ONE entitlement from PID 216-000-181100 with a CONDITION: subject to survey, administrative order or owned under a single tax parcel and any proposed division would need to be approved by the Board of Adjustment; Site sketch noted Exhibit A. Seconded by Vick.

DISCUSSION: Vick questioned if there is a need to limit animal units. Mol stated that with properties owned in common, the owners can work with the County on animal limits. Ogle questioned animal unit limitations as a condition with the property to the north. The Feedlot Administrator did suggest that the parcel be limited to the 9.99 animal units.

Mol and Vick agreed to amend the motion to include a condition that the division out of PID 216-000-181101 be limited to 9.99 Animal Units.

VOTE: Greninger, Mol, Aarestad, Vick Abstained: Neumann

MOTION CARRIED

10. **BAUER CONSTRUCTION INC** – New

LOCATION: 10560 Arnold Cir NW – Lot 7, 7A and 8 Buck's Second Addition, Section 12, Township 121, Range 26, Wright County, MN (Ida – Silver Creek Twp.) Tax # 216-113-000070. Property Owners: ROBERT J & ANN ALWARD

REQUEST: Variance as regulated in Section 155.026 and 155.057(E)(1) of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to remodel the existing home and construct an addition onto the existing home that is within the shoreland building setback.

Present: Chip Bauer

- A. Ogle presented the proposed site plan and reviewed the request. The request is located on Arnold Circle NW in Silver Creek Township. The property is 0.93 acres, zoned Urban Rural Transition, and located on Lake Ida which is classified as General Development. The existing building coverage is 6% and existing impervious surface is 14.4%. Proposed building coverage is 9.2% and proposed impervious surface coverage is 17.7%. Two previous variances were granted for the property. One in 2006 to allow a 357 sq. ft. family-room addition and raise the entire structure to meet a minimum elevation of 4 ft. above the highest known water level. The addition was to be in line with the dwelling and no closer to the lake at 55 ft. from the ordinary high-water mark with the condition the deck is removed and not replaced. The other variance granted in 2006 was for revised plans which included the deck being kept in line with the existing dwelling from the lake and the addition be 61 ft. from the lake and 55.9 ft. from the centerline of the road and 16 ft. from the existing sewer system. The additions approved in 2006 were not constructed. This request is to convert the existing detached garage into livable space and construct a 1,305 sq. ft. addition to the existing home/deck that is 38.1 ft. from the ordinary high-water mark. A variance is required to convert the existing detached garage into livable space and construct a 1,305 sq. ft. addition because the existing home/deck is 38.1 ft. from the ordinary high-water mark whereas 75 ft. is required. The request would also include the garage addition's lowest floor being 3.2 ft. above the highest known water level whereas the County requires 4 ft. The Township recommends approval of the request as the addition was not moving closer to the lake and the additional living space would tie into the existing septic. The Soil and Water Conservation District (SWCD) noted the wetland was filled sometime in the late 70s before WCA rules applied near the southern extent of the proposed garage. With that said, the proposed request would not impact the associated wetland.
- B. Bauer and the public had no comment.
- C. Vick feels 38 ft. from the lake is not ideal. Questioned if the deck was 4 ft. would it be counted as setback distance to the lake. Ogle explained that 4 ft. or less is considered exempt from shoreland setbacks as it would be a stairway/walkway. Vick stated he would like to see a 4 ft. deck lakeside or move the deck to the side, which would get the home set back to 42 ft.
- D. Greninger – no questions.
- E. Neumann questioned if there would be two buildings with livable space. Bauer used the proposed site plan and building plans to explain the existing garage will converted to living space and an addition of a new attached garage. Neumann asked about the number of proposed bedrooms and will the septic system be compliant. Bauer – explained the septic is compliant and with addition and remodel is still in compliance. Neumann – impervious and building coverage meets requirements. Nothing can be done with the lake setback when the home exists. Bauer – owners purchased 4-5 years ago unknowing of variances. The cabins on either side are closer to the lake than this cabin so they were a little surprised the home is as close as it is and the design of the addition was to get away from the lake.
- F. Mol – home is 38 ft. from the lake but in the 2006 plans the statement was made of being 61 ft. from the lake, why the difference? Ogle – believes measurement used for that request was coming from the proposed

addition not the closest part to the lake. The house has stayed the same since 2006 and variance addition was never constructed. Mol – with the addition still within lot coverage limits but by adding on a garage the building is becoming awfully large and in another 10 years when a person wants to rebuild it is now approved at that larger size. Not necessarily against the request but is considering the larger size of the home and how that could impact the neighborhood and if to be rebuilt in the future. It is no longer a smaller house or cabin but a large lake home.

- G. Vick questioned the existing deck size. Bauer – unsure. Vick – if handing out variances this is the time to push back from the lake.
- H. Aarestad – what is the distance from the lake to the proposed addition? Bauer – close to 80 ft. Ogle – addition meets all required setbacks. Aarestad – no issue with the request but is concerned with stormwater management and will want to see water managed.
- I. Neumann questioned the total livable space. Bauer – would estimate at 2,700 sq. ft.
- J. Neuman moved to approve the request to convert the existing detached garage into livable space and construct a 1,305 sq. ft. addition to the existing home/deck that is 38.1 ft. from the Ordinary High-Water mark **CONDITIONED** a stormwater management plan be submitted to keep water off neighboring properties. Site plan noted Exhibit A and building plans noted Exhibit B. Seconded by Mol.

DISCUSSION: Vick – if rebuilt could stay at 38 ft. with the deck. Ogle – house cannot further encroach the lake, allowed same for same. Would not be allowed to go from deck to something other than deck. Vick – would like to see a 4 ft. walkway deck.

VOTE: Greninger, Mol, Aarestad, Neumann Nay: Vick

MOTION CARRIED

11. **JENNIFER DOHERTY** – New

LOCATION: Up The Creek Bar and Grill - 4246 112th Street NW – Lot P & Lot K of Gov. Lot 1, Section 05, Township 121, Range 26, Wright County, MN (Silver - Silver Creek Twp.) Tax # 216-000-054110, 216-000-054112, 216-000-054105, 216-000-054106. Property Owners: Moores & Maas Properties, LLC.

REQUEST: Amend conditions placed on a previous Board of Adjustment approval as regulated in section 155.026 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Jen Doherty, Christina Maas, Tom Vanek with Silver Creek Township Planning & Zoning, Mike Helman as Silver Creek Township Supervisor.

- A. Ogle displayed a proposed site plan and reviewed the request. This request is to amend two of the approved 2023 conditions, one is the non-amplified music condition and the other is the fencing plan. It should be noted that an approval already exists and this request is to update conditions that have already been approved by the Board of Adjustment last year. The Township approves of the amplified music with meeting the fence requirements that were already set and with the same times and dates set by the County. A neighbor is opposed to any amendment that would allow amplified outdoor music in Silver Creek as they already put up with noise pollution from the business. They would like for them to keep their amplified music inside. Another neighbor questioned how the use was allowed to expand to include all parcels used by Up the Creek and suggested some conditions regarding noise and fencing.
- B. Doherty stated a lot has changed since last year. A drain field was added and part of the reason why wanting to amend the height of the fence in that area. With proposed plan displayed the fencing was reviewed. Where the new drain field is located there is 40 ft. between the property line and a split rail fence that blocks off the new drain field area. They would like to be allowed a 6 ft. fence vs. a 7 ft. custom height fence. Last year there was discussion on the south side fence and some concerns with the 7 ft. fence. Today they are asking to go back to the original plan of having the fence closer to the road, where the existing split rail is located, and start the fence over a few parking spots so that night staff is able to park and still have good view to ensure safety. There was a good conversation at the township meeting around a microphone. From where the stage is located a few of the tables are over 50 ft. away from the stage and without a microphone the music cannot be heard. They would like to be allowed the use of a microphone with the setup that the musician provides. In the past, the music entertainment has been 2 to 3 people with a microphone and a speaker or two that they provide and sits on either side of the stage, not huge amplifiers.
- C. Arrested opened comment to the public and asked for comment to be kept to 3 minutes.
 - John Krause – no problem with a 6 ft. fence around the parameter but feels a taller fence needs to be around the seating area. Moving more towards the road would be great. A vinyl fence in that seating area might help with noise. As of now, it has been much better and tolerable. Parking issues can still be a problem because of the limited availability.
 - Mike Helman –Silver Creek Township Supervisor – has been involved in the 3 years of discussion and has been at the establishment during live amplified music, it was never loud. Feels these owners have cleaned up the site and over the years less and less public has been present at the meetings. The Township has received zero complaints. He has heard from residents who were against past requests that have had a change in thought because the owners have worked hard on addressing concerns. There are signs all over the bar and staff has been seen speaking with patrons regarding bike noise. The Township Board wants to see this operation thrive and not leave. The Township has voted in approval of live amplified music and adjustment to a 6 ft. fence.
 - Tom Vanek – Silver Creek Township Planning & Zoning – has heard from the applicant 3-4 times and the vote has been unanimous approval for Up the Creek. There is signage around the building

addressing respecting neighbors and parking. Parking issues were addressed by the Sheriff but he feels like some additional parking signs could be added by the County Highway Department.

- Rob Quist feels like there are a lot of people not speaking up because they are intimidated and a target. Without the music, the town has been quieter and back to how the town used to be. Risk comes along with running a business and one of those risks is government-imposed regulations. These regulations can include zoning regulations to keep structure in order. He feels like there is not a lot of order in town during the outdoor music and is asking the board to do its best in making a decision that is in harmony with the community. Up the Creek has asked for a variance which he is asking to be denied and feels that the county requirements from the 2023 variance are not being followed so all live music should be stopped this year and in the future. Reasons for this are that the business has outgrown available parking and the county should further inspect parking requirements. Noise and traffic are still an issue. County Ordinance Section 155.026 states if a variance is granted it "*will not alter the essential character of the locality*"; if this variance is allowed it would greatly alter the small town feel due to an increase in traffic and sound. The request to shorten the fence would increase the noise emitted and he feels a 7 ft. fence is too short, it would not block the stage and he would suggest that the height on the south and east should be 8 ft. On the most recent variance application question #4 asks if the proposal will alter the character of the locality. Yes, it will negatively affect the area due to the increase in traffic and noise both from traffic and music. Statistics from the Appraisal Institute states a bad neighbor could potentially reduce your home value by up to 5%, which could be \$10-\$25,000 per resident. Question #5 on the application asks if practical difficulty, if one exists, can be alleviated by a different method other than a variance. The applicant stated no but this has already been overcome with inside music. Question #6 asks if granting the variance will adversely affect the environmental quality. The applicant stated no but we are here today because of the negative effects. State law does require fencing between a business and residences and the applicant has not installed the 2023 required fencing to the north and east. He feels this business has consistently failed to act professionally when instructed by governing boards. If the board is granting this variance, he would request that it is articulated what immediate hardships are being addressed and what documentation led to the decision as well as how bad faith was taken into account.
 - Leslie Theisen – has lived directly north of the bar since June 2020 and currently shares a fence line. She has never had a problem or concern with the volume of music. She has been present during live music and yes traffic does increase but that traffic will be there regardless. Business increases when broasted chicken is served so should that be stopped? Amplified music is not a concern for her and her family. The music stops at 9 pm and maybe occurs 6 hours a week. She doesn't feel there is going to be a big difference between a 6 ft. and 7 ft. fence. The parking lot lights come into her kitchen and since the 6 ft. fence was installed, she has had no issues.
 - Mitch Elsenpeter – a musician who has played at the bar and is frustrated with people shutting down a business or hitting a business for being successful. He has been playing at Up the Creek for the past 10 years. A live public address (PA) system is needed when playing outside so people can hear but also there are times, he sings at various locations Wednesday through Sunday and when singing over an hour with no microphone his voice and ability to sing is affected. Not sure a 6 or 7 ft. fence is going to change the noise. The locals love live music and as a musician in the area, he sees the smiles on the audience. One can't blame a business for being busy.
- D. Greninger – parking is something he feels there should be more of and is a big problem. To make the bar work there does need to be some music but there also needs to be peace in town. Questioned how parking could be addressed. Doherty – the downfall of location is they are between several cities so a lot of people tend to meet at the bar. They have tried with the County to get the parking lot tared but because of the required green space that will not work. She recently spoke with the Sheriff's Dept. and they are trying to work together on sign verbiage and where they could be located as well as she has posted professional signs that address parking and being respectful of neighbors. The goal is to have a successful business and

understands there needs to be compromise with neighbors. They have not expanded seating, there is nowhere to grow. With the music, they are not looking to add additional tables to have the music they are hoping to fill existing tables. Maas – she purchased the bar roughly 15 years ago and the east parking lot at that time was a house. They purchased the property, removed the house, and added the parking lot. There is no other property to purchase for parking.

- E. Neumann questioned the difference between a 6 ft. and 7 ft. fence. In 2023 the Board was adamant about the 7 ft. fence. Understands the 7 ft. fence will cost more. Is the issue just related to cost? Doherty – cost is part of it. The fence on the south side, where cars park, would be acceptable as 7 ft., and where the music is a 7 ft. fence would make a difference. Doesn't feel like a 7 ft. vs. 6 ft. is necessary north of the drain field, no one will walk there as it is so far away from the bar. The east neighbor's main concern was headlights in the dining room but the property line goes very close to the driveway and a 6 ft. tall fence would address her complaint. As Ms. Theisen stated, she hasn't had problems with the existing 6 ft. fence. Neumann – amplified music was supported by the Township and they are the closest governing body when there are issues. If the Township is willing to take those complaint calls that could be a condition he could support. Questioned the long-term plans of the business and if an addition has been considered for indoor music. Even just a shell to protect against the elements. Maas – they are maxed on the amount of building area they can have. Neumann – even with additional space from the parking lot parcel? Doherty – that would take away from parking. It is MN and people want to be outside when it is nice. When the music was indoors musicians canceled because they didn't feel the cost to have them play was justified with the lack of patrons inside the bar when the outdoor patio was full.
- F. Mol – hearing what is being said by the applicant but also concerned for the neighbors. Lives in the area knows it gets busy in town. He also grew up in the area. Nothing against the business but this Board also has to try to protect the residents. If more business is created then what happens? What is the plan for the future? As mentioned, everyone meets at the bar and, on the weekend, it can be solid bikes, which is great but the residents do have to be protected. The business needs to coexist with the residences. Roughly 3/4 of a mile from his home when the music is played in the shed, he can hear it at his home. Amplified music moves and goes places. Maybe some people don't want to hear the music and choose to sit in the back so they can have a conversation. With a variance the volume of the music really can't be controlled. Doherty – directly to the east of the stage is the outdoor bar. This is where the servers get the drinks and if the music is too loud the servers and bartender wouldn't be able to hear each other. Mol – as the Township pointed out the number of residents in attendance at meetings regarding Up the Creek has dropped. At the last BOA meeting even, social media was full of comments. Doherty – being a businessowner you do need to be on social media and not all attention is good attention. Not all comments are in their control either. They do want to work this out with the neighbors and they do feel it is going in the right direction.
- G. Vick stated he is okay with the 6 ft. fence height. Questioned if the amplified music can point back towards the musician and help. Doherty – doesn't know about that topic but what she did check into was playing the live music into the existing speakers. Unfortunately, that is not an option as there would need to be a person working a sound control station. Each musician also has their own equipment that may not work with the existing Wi-Fi setup. Vick questioned the days and times for outdoor music with Doherty stating the same as previously approved, Thursday 2 pm – 5 pm and Sunday 6 pm – 9 pm.
- H. Aarestad – glad to hear that there has been improvement. The Township did a great job with their reply and the direct neighbor to the north has stated they are okay with the 6 ft. fence. He was originally adamant about the 7 ft. fence but now is okay with a 6 ft. fence. On the back side of the parking lot, there is a home with no windows and he would question if a fence would be needed, except to contain trash. He can agree with a 6 ft. fence. Aarestad asked the applicant to explain the afterhours safety concern. Doherty – fencing is supposed to go up to the sidewalk but what they would like is at least 2 car lengths with the split rail fence moving into a 7 ft. privacy fence so that employees leaving after hours can see behind the fence. Aarestad stated that does seem reasonable. At the last meeting, the audience was full and it was a quality of life issue in the past. That still resonates with him and the amplified music. Progress has been made and maybe the next step would be to

try this on a Conditional Use. Kryzer – this Board in 2023 found that the illegal expansion of live music was detrimental to the health, safety, and welfare of the community. At that time the room was filled and they were illegally having the live music. If looking to approve live amplified music he would suggest limiting times, days, and number of events as well as permitting for only the summer season with a requirement to come back for review. He would like to reiterate that this Board did find the prior use of doing what is proposed was detrimental to the health, safety, and welfare of this community. Ogle – last year the Board approved May 1st – September 30th for both Thursday and Sunday. Aarestad stated limiting the days and hours requested is reasonable. Doherty – The Township stated they would want to review every year.

- I. Vick moved to approve live outdoor amplified music on Thursdays from 6:00 pm to 9:00 pm and Sundays from 2:00 pm to 5:00 pm. All fencing must be installed before live outdoor music commences. A 6 ft. fence is required as noted on proposed plans, a 7 ft. fence where noted on proposed plans, and a 4 ft. fence along the north property line. CONDITIONED that all other conditions from the 2023 variance approval (PR20230000222) remain in effect with live outdoor music allowed through September 30, 2024. The proposed site plan is noted as Exhibit A. Motion seconded by Greninger.

DISCUSSION: Mol – music is allowed through 2024 and they would need to come back to the Board for new music permit. Vick – felt the Township could review in a year and make the decision. Kryzer – suggestion would be to allow music through 2024 and come back to this Board for a new permit. Mol – they would need to come back to this Board for a new permit and show that the fences have been installed, the music worked and if needed issues or concerns could be addressed. Ogle – clarified the 4 ft. fence line based on the proposed plan. Mol – 6 ft. fence on the west and dropping to 4 ft. on the north will look foolish. He feels a 6 ft. fence should go all the way around. Aarestad stated he would be fine with that and ensure the good side of the fence faces the neighbor.

Vick and Greninger amended the motion from a 4 ft. to a 6 ft. fence along the north property line.

VOTE: Greninger, Vick, Aarestad Nay: Mol & Neumann

MOTION CARRIED

The meeting adjourned at 11:35 a.m.

Respectfully submitted,



Aaron Ogle
Planner

AO: sld

CC: Board of Adjustment
Applicants/Owners
Twp. Clerks