

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: August 21, 2023

Time: 7:00 p.m. (doors open at 6:45)

Location: Nicollet County Board Room, 501 S. Minnesota Avenue, St. Peter, MN

Copies of the meeting agenda and packet are available on the Nicollet County website at:
<https://mn-nicolletcounty.civicplus.com/AgendaCenter>

Questions or comments regarding the meeting can be directed to Spencer Crawford, Deputy Zoning Administrator, at 507-934-7071, or spencer.crawford@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: *July 17, 2023*
5. Public Appearances
6. **PUBLIC HEARING: PLN 23-10**
 - Applicant: Daniel Long
 - Landowner: Daniel & Julie Long
 - Request: Reduction of the ordinary high water mark setback from 200 feet to 70.8 feet for the purpose of constructing a shed
 - Location: Southwest ¼ of the Northeast ¼, Section 8-110-30, Lafayette Township
 - Parcel Number: 06.108.3600
7. Old Business
8. Other Business
9. Communications
10. Adjourn

Mission Statement

Providing efficient services with innovation and accountability.

Vision Statement

Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse society.

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.



BOARD OF ADJUSTMENT & APPEALS REGULAR MONTHLY MEETING MINUTES

JULY 17, 2023	7:00 PM	NICOLLET COUNTY BOARD ROOM
---------------	---------	----------------------------

ROLL CALL	BOARD MEMBERS PRESENT	BOARD MEMBERS ABSENT EXCUSED	NICOLLET COUNTY STAFF PRESENT
	☒ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☒ Jon Thoreson ☒ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	☒ Spencer Crawford, Deputy Zoning Administrator (DZA) ☒ Roxann Klein, Assistant County Attorney (ACA) ☒ Crystal Madden, Recording Secretary ☐ Other Staff: ☐ Other Staff:

REVIEW OF CANCELLATIONS & ADDITIONS	None.
-------------------------------------	-------

APPROVAL OF JUNE 26, 2023 MINUTES	MOTION	2 ND
APPROVE	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Dave Ubel ☐ Jon Thoreson ☐ Randy Schwab
VOTE TO APPROVE MINUTES	☒ PASS ☐ FAIL	VOTE: 4 - 0

FINDINGS OF FACT PLN23-08, SCHMIDT	MOTION	2 ND
APPROVE	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☒ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel
VOTE TO APPROVE FINDINGS OF FACT	☒ PASS ☐ FAIL	VOTE: 4 - 0

FINDINGS OF FACT PLN23-09, KLOSSNER	MOTION	2 ND
APPROVE	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Randy Schwab ☐ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel
VOTE TO APPROVE FINDINGS OF FACT	☒ PASS ☐ FAIL	VOTE: 4 - 0

PUBLIC APPEARANCES	No public appearances.
--------------------	------------------------

PUBLIC HEARINGS – Variance	
NO SCHEDULED PUBLIC HEARINGS	

ADDITIONAL ITEMS			
OLD BUSINESS	None.		
OTHER BUSINESS	The Board approved By-Law revisions. Motion to approve passed with a 4-0 vote.		
COMMUNICATIONS	None.		
MOTION TO ADJOURN MEETING	MOTION	2 ND	
07:18 PM	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☒ Jon Thoreson ☐ Dave Ubel	☐ Justin Laven, <i>Chair</i> ☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Randy Schwab ☐ Jon Thoreson ☒ Dave Ubel	
VOTE TO ADJOURN MEETING	☒ PASS	☐ FAIL	VOTE: 4 - 0

CRYSTAL MADDEN, RECORDING SECRETARY		DATE	8/21/2023
JUSTIN LAVEN, CHAIR		DATE	8/21/2023



VARIANCE

REDUCTION OF THE ORDINARY HIGH WATER MARK SETBACK FOR THE PURPOSE OF CONSTRUCTING A SHED

Daniel Long

PLN23-10

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	Variance PLN23-10
APPLICANT:	Daniel Long
LANDOWNER:	Daniel & Julie Long
LOCATION:	Southwest ¼ of the Northeast ¼, Section 8-110-30, Lafayette Township
PARCEL NO:	06.108.3600
EXISTING ZONING:	Shoreland
HEARING DATE:	08/21/23
60 DAYS FROM REQUEST:	09/25/23

REQUEST

Daniel Long is requesting a reduction of the ordinary high water level setback from 200 feet to 70.8 feet in the Shoreland Zoning District for the purpose of constructing a 30' x 30' shed.

ORDINANCE

Nicollet County Shoreland Ordinance 501.2 C: Minimum setback from ordinary high water mark of two hundred (200) feet.

PROJECT DESCRIPTION

The proposal consists of a pole shed with two sliding doors, corrugated steel siding, and a concrete floor. The shed would be painted "earth tone brown" to match the house and the surrounding area. The Applicant states it will be used to store two vintage automobiles.

There is no spot on the property in which the Applicant could construct a shed and comply with the Zoning and Shoreland Ordinances. The home site and flat ground is nestled between Fritsche Creek to the west and steep bluff to the east, with the ordinary high water level setback extending to the edge of the bluff. The proposal is within the shore impact zone as defined by the Shoreland Ordinance. The Applicant states they are unable to move the shed further away from the creek due to underground utilities, septic tank piping, and the bluff setback. However, it may be possible to place the shed in a less desirable location outside of the shore impact zone.

EXISTING LAND USE

The residential property consists of two lots on the eastern bank of Fritsche Creek. They are primarily covered in forested bluff except for a flat strip near the creek which constitutes the Applicant's yard.

SURROUNDING LAND USE

The property is part of a platted subdivision, and is surrounded by residential lots that are similar in both characteristics and size.

SITE REVIEW

Staff visited the site and took photographs of the request on August 9, 2023.

DEPARTMENT OF NATURAL RESOURCES COMMENT

Alan Gleisner with the DNR provided the following comments:

Nicollet County Shoreland Ordinance calls for a structure setback of 200' from the ordinary high water level (OHWL) therefore dictating the size of the Shore Impact Zone (SIZ) at 100' from the OHWL. This proposed variance request is for a reduction from 200' to 70.8' which would place this proposed structure within the SIZ according to Nicollet County Shoreland Ordinance.

Therefore, DNR would recommend reevaluating the proposed structure placement to encourage placement outside of the SIZ as described by Nicollet County shoreland ordinance. This parcel has a unique size and shape that may offer limited opportunities for design, however after review of the parcel on aerial imagery, it may be possible to position the proposed structure to satisfy these requirements.

DNR would recommend that the subsequent changes with stormwater flow and impervious surfaces be considered through the implementation of stormwater retention practices. It may be beneficial to install a method of stormwater collection to prevent erosion, nutrients, and sediment from flowing directly into stream during rain events and be allowed to collect and settle out before being slowly metered into the stream. A few examples of stormwater retention methods are the installation of rain gardens to catch impervious surface runoff, rain gutter bulk storage containers to catch excess roof runoff, or temporary holding barrels. Another option would be to install a buffer of native plants and/or shrubs between the waterway and proposed structure to help encourage slower surface water velocities during rain events and allow water infiltration through the soil substrate. These types of practices, a combination of them, or others not listed, allow for temporary storage and/or increased water infiltration, in turn, allowing the settlement of nutrients, solids, sediments, etc. and preventing them from entering the water body.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota Statutes Section 394.26.

VARIANCE CRITERIA

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the official control creates practical difficulties for the property owner in the use of their land. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. No variance shall permit standards lower than those required by state law. A variance may be granted only in the event that the following circumstances exist:

1. The variance is in harmony with the general purposes and intent of the official control?
 - The intent of the official control is to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland, and provide for the wise use of waters and related land resources.
2. The variance is consistent with the intent of the Comprehensive Plan?
 - The Comprehensive Plan states:
 - Waterbodies can be negatively impacted by land use activities if protections are not properly managed.
 - Shoreland regulations help to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland, and provide for the use of waters and related land resources.
3. The variance establishes a practical difficulty in complying with the official controls?
 - There is no spot on the property in which the Applicant could construct a shed and meet the ordinary high water mark and bluffline setback.
 - The Applicant states they are unable to move the shed further away from the ordinary high water level mark due to underground utilities, septic tank piping, and the bluff setback. However, it may be possible to move the shed out of the shore impact zone.
 - Without a variance, the Applicant is not denied reasonable use of the property as a home site.
4. The plight of the landowner is due to circumstances unique to the property not created by the landowner?
 - The plight is related to the natural features of the property.
5. The variance will not alter the essential character of the locality?

- The size, shape, color, and location of the proposed shed is not atypical for the surrounding area.

6. The practical difficulty includes more than economic considerations alone?

- The practical difficulty is due to the location of the shed in relation to the creek, and does not appear to include economic considerations.

RECOMMENDED CONDITIONS

Staff recommends the attachment of the following conditions if the variance request is approved:

1. The Applicant undertakes the project according to the plans and specifications submitted to the County with the application.
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The Applicant must obtain the appropriate zoning permits prior to construction.
4. The applicant shall implement a method of storm water retention between the shed and Fritsche Creek so as to allow erosion, nutrients, and sediment to settle before entering the stream.

**Applicant/Property Owner:
Daniel Long/ Daniel & Julie Long**

PLN23-10

ATTACHMENT A	Application
ATTACHMENT B	Submitted by Applicant
ATTACHMENT C	Aerial Map
ATTACHMENT D	Location Map
ATTACHMENT E	Site Photographs
ATTACHMENT F	Neighbor Notification List
ATTACHMENT G	Criteria for a Variance



PROPERTY SERVICES DIVISION
501 S MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS APPLICATION

TOTAL FEES: \$496.00

Map#: 10-08-200-023
Parcel#: 06.108.3600
Permit#: PLN23-10
Date: 7/25/2023

Applicant: Daniel Long
Telephone: 507 276 8529
Owner: Daniel & Julie Long
Property Address: 41427 595th Ln, New Ulm MN 56073
Abbreviated Legal Description: Tract 18 2.72 AC
Township: Lafayette Township
Zoning District(s): SHORELAND
URBAN RURAL RESIDENTIAL

Record Type: Variance
Subtype: New
Category: RES Storage Building
Description: Proposed 30' x 30' shed
G.C. Licence#: n/a

HEARING DATE: 8/21/2023

Daniel Long
Daniel Long (Jul 27, 2023 15:36 CDT)

APPLICANT SIGNATURE

Jul 27, 2023

DATE

Garden Grover

PROPERTY SERVICES

07/25/23

DATE

ATTACHMENT A
Application

PLN23-10 Application

Final Audit Report

2023-07-27

Created:	2023-07-27
By:	Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIUL6cD70Jiz57K2DoMXuzGqiupxHtLSB

"PLN23-10 Application" History

 Document created by Spencer Crawford (Spencer.Crawford@co.nicollet.mn.us)
2023-07-27 - 1:59:49 PM GMT

 Document emailed to jdlong@newulmtel.net for signature
2023-07-27 - 2:00:11 PM GMT

 Email viewed by jdlong@newulmtel.net
2023-07-27 - 8:33:12 PM GMT

 Signer jdlong@newulmtel.net entered name at signing as Daniel Long
2023-07-27 - 8:36:08 PM GMT

 Document e-signed by Daniel Long (jdlong@newulmtel.net)
Signature Date: 2023-07-27 - 8:36:10 PM GMT - Time Source: server

 Agreement completed.
2023-07-27 - 8:36:10 PM GMT



VARIANCE APPLICANT QUESTIONNAIRE
PROJECT DESCRIPTION

Name of Applicant: Daniel Long

Date: 7/15/23

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

If your request is approved, you will be **held** to the plans and specifications submitted to the County with your application.

The planned footprint of the storage garage is 30' X 30' with two garage doors.

The design is called "Residential Post Frame". It is a pole shed style building with a concrete floor, corrugated steel siding and roof.

The color of the shed will match the house which is an "Earth Tone Brown".

The garage will be used for storage of two vintage automobiles only.

ATTACHMENT B
Submitted by Applicant



Name of Applicant: Daniel Long
Request: Daniel Long

Date: 7/15/23

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

Why do you feel the request meets the following criteria?

1. The variance is in harmony with the general purposes and intent of the official control.

I would like to build a simple storage garage to house two vintage automobiles. This will be for automobile storage only.

No chemicals or other harmful substances will be used or stored in this garage.

2. The variance is consistent with the intent of the Comprehensive Plan.

If the variance is issued for the storage garage it will not impact our waterways. It is not located in the flood plain

and does not encroach on the 30 ft. bluff set-back. This garage is for storage of two vintage automobiles.

No chemicals or other harmful substances will be stored here.

3. The variance establishes a practical difficulty in complying with the official controls.

There is no other location where a 200 ft. set-back from Fritsche Creek is available.

The east side of the property is constrained by the 30 ft. bluff-line setback. The garage location is constrained from moving further east because of underground utilities and septic tank piping.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The need for a variance is unique to the property. It is constrained by Fritsche Creek at the west side of the property

and a large bluff to the east. The properties obstacles were not created by the landowner.

(Continued onto back)

5. The variance will not alter the essential character of the locality.

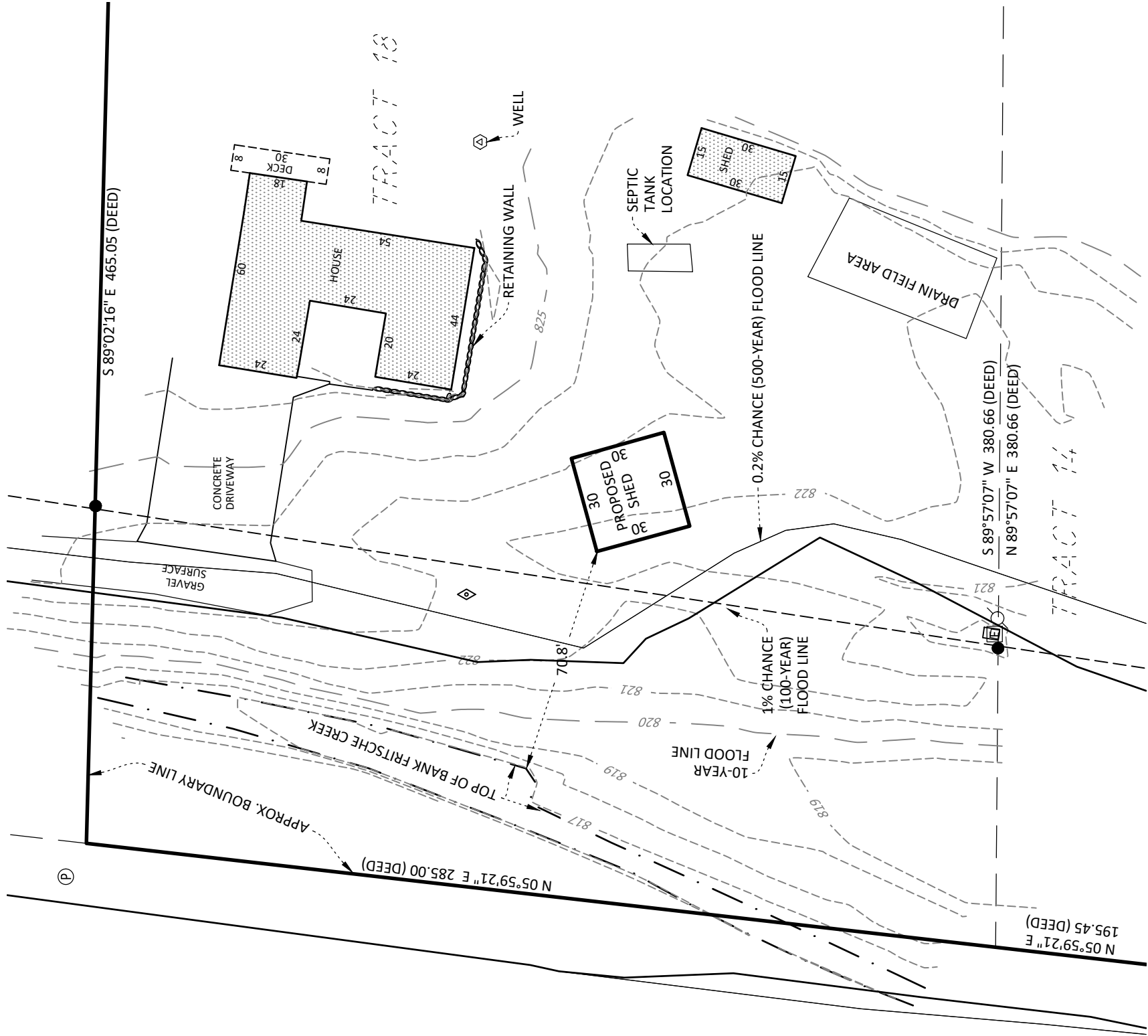
The character of the locality will not be affected. The color of the storage garage will be "Earth Tone Brown",
the same as the house. I have also spoken to the neighbors who are all okay with the garage being built.

6. The practical difficulty includes more than economic considerations alone.

The practical difficulty is the high water mark of Fritsche Creek on the west side and the bluff on the east side of the property.

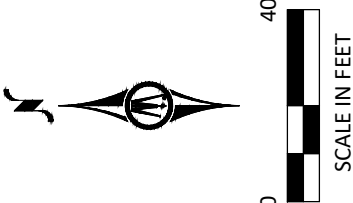
There is no positive economic gain for me. My finances are impacted negatively. The cost of the survey will be
approximately \$1,500 - \$2,000 and the variance is \$496.00.

***ALL SIX VARIANCE CRITERIA MUST BE MET
IN ORDER FOR THE REQUEST TO BE APPROVED.***



Flood Zone

The lines for the 1% and 0.2% chance flood are from FEMA Flood Insurance Map 27103C0230H dated 10/13/2022.



LEGAL DESCRIPTIONS (as per Doc No. 332658)
TRACT 14

That part of the Southeast Quarter of the Northwest Quarter (SW 1/4 of NW 1/4) of Section 8, and that part of the Southwest Quarter of the Northeast Quarter (SW 1/4 of NE 1/4) of Section 8 and that part of Lots B C of the Otto Fritsche Farm plat, all the above in Township 110 North, Range 30 West, Nicollet County, Minnesota, described as:

Commencing at the Southwest corner of Lot 2, Block 4, plat of North Ridge Acres (a replat of part of Otto Fritsche Farm, Lots A & F) on file in the office of the Nicollet County Recorder; thence South 89 degrees 55 minutes 49 seconds East, along the South line of Lot 2, Block 4, a distance of 510.44 feet; thence South 16 degrees 16 minutes 37 seconds West, 248.89 feet; thence South 22 degrees 30 minutes 18 seconds West, 298.01 feet to the point of beginning; thence South 06 degrees 10 minutes 37 seconds West, 449.43 feet to the South line of Lot B of the Otto Fritsche Farm plat; thence South 89 degrees 57 minutes 07 seconds West, along the South line of Lot B, Otto Fritsche Farm plat, 304.35 feet to the Southwest corner of said Lot B; thence North 89 degrees 24 minutes 25 seconds West, along the South line of the Southeast Quarter of the Northwest Quarter of Section 8, a distance of 282.63 feet to the centerline of Fritsche Creek; thence North 43 degrees 12 minutes 10 seconds East, 342.21 feet; thence North 05 degrees 59 minutes 21 seconds East, 195.45 feet; thence North 89 degrees 57 minutes 07 seconds East, 380.66 feet to the point of beginning. Contains 4.49 acres of land.

TRACT 18

That part of the Southwest quarter of the Northeast quarter of Section 8 and that part of Lots B & C, Otto Fritsche Farm plat, and that part of the Southeast quarter of the Northwest quarter of Section 8, all the above in Township 110 North, Range 30 West, Nicollet County, Minnesota, described as:

Commencing at the Southwest corner of Lot 2, Block 4, plat of North Ridge Acres, (a replat of part of Otto Fritsche Farm, (Lots A & F); thence South 89 degrees 55 minutes 49 seconds East, along the South line of Lot 2, Block 4, a distance of 510.44 feet; thence South 16 degrees 16 minutes 37 seconds West, 298.01 feet; thence South 89 degrees 57 minutes 07 seconds West, 380.66 feet; thence North 05 degrees 59 minutes 21 seconds East, 285.00 feet; thence South 89 degrees 02 minutes 16 seconds East, 465.05 feet to the point of beginning.

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Jesse D. Zeig
Jesse D. Zeig
License Number 44996
Date 7/19/2023

Horizontal Datum: 2011 Nicollet County Coordinate System
Vertical Datum: NAVD 1988 In Feet

VARIANCE SKETCH
LAFAYETTE TWP., NICOLLET COUNTY

TRACT 18 IN SW 1/4-NE 1/4
SECTION 8-110-30

1243 CEDAR STREET NE
SLEEPY EYE, MINNESOTA 56085
(507) 794-5541



FOR: DAN AND JULIE LONG





ATTACHMENT D
Location Map







DISPLAYNAME	MAILINGADDR	MAILINGCITYSTATEZIP
Marlys Lindstrom	41544 595Th Ln	New Ulm, MN 56073
Rick & Kathy Vanroekel	41520 595Th Ln	New Ulm, MN 56073
Tate & Karen Stillwell	59501 414Th Ln	New Ulm, MN 56073
James Bartels Living Trust; James & Konnie Bartels	59536 414Th Ln	New Ulm, MN 56073
Dennis & Kathleen Lux	41424 595Th Ln	New Ulm, MN 56073
Kristy K Oelberg Living Trust	59562 414Th Ln	New Ulm, MN 56073
Theodore Arndt Jr & Karen Groebner	41472 593Rd Ave	New Ulm, MN 56073
Jason & Jennifer Kuester	18951 Riverbluff Dr	New Ulm, MN 56073
Richard Price	41510 593Rd Ave	New Ulm, MN 56073
Paul & Vicki Maday	41434 593Rd Ave	New Ulm, MN 56073
Jace & Katherine Marti	41402 593Rd Ave	New Ulm, MN 56073
Justin Pettersen & Jamie Kasiska	41498 593Rd Ave	New Ulm, MN 56073
Gregg & Jamie Holm	41480 593Rd Ave	New Ulm, MN 56073
Daniel & Julie Long	41427 595Th Ln	New Ulm, MN 56073
Rick & Kim Apitz	419 2Nd St S	New Ulm, MN 56073
595th Lane LLC	41424 595Th Ln	New Ulm, MN 56073
Dale Bushard	43252 Windhaven Ln	New Ulm, MN 56073
Jarrold & Marie Larsen	41454 593Rd Ave	New Ulm, MN 56073
State Of Minnesota	Mail Station 3340	Saint Paul, MN 55146
Wayne Wels - Lafayette Township	60054 398th Street	New Ulm, MN 56073



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant Daniel Long

Hearing August 21, 2023

Property Owner Daniel & Julie Long

Continuation N/A

File PLN23-10

Board Member

Variance Request A reduction of the ordinary high water level setback from 200 feet to 70.8 feet in the Shoreland Zoning District for the purpose of constructing a 30' x 30' shed.

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

YES ☐ NO ☐ REASON: _____

2. The variance is consistent with the intent of the Comprehensive Plan.

YES ☐ NO ☐ REASON: _____

3. The variance establishes a practical difficulty in complying with the official controls.

YES ☐ NO ☐ REASON: _____

ATTACHMENT G
Criteria for a Variance

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

YES ☐ NO ☐ REASON: _____

5. The variance will not alter the essential character of the locality.

YES ☐ NO ☐ REASON: _____

6. The practical difficulty includes more than economic considerations alone.

YES ☐ NO ☐ REASON: _____

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☐ APPROVES THE REQUESTED VARIANCE

☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

- | | |
|---|---------------------------------------|
| ☐ Application | ☐ Site visit |
| ☐ Information received at public hearing | ☐ Staff Report |
| ☐ Pictures | |

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Board Member: _____