

Nicollet County Board of Adjustment and Appeals



October 18, 2021

7:00 PM

Doors Open at 6:45 PM

County Board Room, Nicollet County Government Center, 501 South Minnesota Avenue, Saint Peter MN 56082

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: September 20, 2021
5. Approval of Findings of Fact: September 20, 2021
 - **PLN21-32, Gieseke**
 - **PLN21-35, Burg**
 - **PLN21-37, Minnesota Valley Lutheran High School**
 - **PLN21-38, Long**
6. Public Appearances: None
7. Old Business
8. Other Business
9. Communications
10. Adjourn

Mission Statement

*Providing efficient services
with innovation and
accountability.*

**Leadership. Efficiency. Accountability.
Innovation. Integrity.**

www.co.nicollet.mn.us

Vision Statement

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



Board of Adjustment & Appeals

MINUTES

SEPTEMBER 20, 2021

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	David Wendinger ☒ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☒	Dave Ubel ☒
ABSENT EXCUSED	David Wendinger ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
ABSENT	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
STAFF PRESENT	Property and Public Services Director Mandy Landkamer ☒ Assistant County Attorney (ACA) Megan E. Gaudette Coryell ☒ Other Staff: ☒ Pete Otterness, County Sanitarian, Sr.				

REVIEW OF CANCELLATIONS & ADDITIONS		None.			
MOTION TO APPROVE MINUTES OF JULY 19, 2021		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☒ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO APPROVE MINUTES		PASS ☒	FAIL ☐	VOTE: 4 - 0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-30, KLOCKZIEM		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 4-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-33, COTTOM		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐

2 ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 4-0	

PUBLIC APPEARANCES	None.
--------------------	-------

PUBLIC HEARINGS:

APPLICANT: PATRICK AND SHANA GIESEKE

FILE #: PLN21-32 CONTINUED FROM AUGUST 16, 2021 MEETING

DESCRIPTION: EXPAND A NONCONFORMING STRUCTURE, REDUCE THE BLUF SETBACK, REDUCE THE FRONT YARD SETBACK, ALTER A BLUF AREA, AND ALLOW FILL TO BE PLACED IN A PROTECTED BLUFF AREA

APPLICANT COMMENT	Patrick and Shana Gieseke were present. Mrs. Gieseke requested an amendment to the proposed conditions for approval presented at the August 16, 2021 meeting, specifically condition #2 – to require staff contact the applicants 15 prior days to a site visit to ensure Mr. and Mrs. Gieseke are available to be both onsite. In addition, she also asked that the conditions expire upon completion of all variances associated with PLN21-00032.				
PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS ☐		DENY WITH CONDITIONS ☒		
1 ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Laven read within the staff report that Mr. Gieseke is a contractor and he should know a permit is required before starting work. Mr. Gieseke stated he is a contractor and builds small projects, not houses. He has never had to get a variance for a project and most permits he has dealt with have been in the City of New Ulm. He also stated more often than not, contractors start projects without a permit. Laven stated that he is not a contractor, rather he is an electrician and knows several contractors that obtain permits prior to starting a project. Mr. Gieseke agreed that he was aware a permit was required prior to starting. Mrs. Gieseke commented that she is responsible for not getting the permit, not Mr. Gieseke, as she handles the business side of the business. Laven asked about the septic system. Mr. Otterness explained the survey contains a box that addresses the area needed for the primary and secondary septic sites. Wendinger made a motion for approval, with the six suggested conditions prepared by staff. This was seconded by Ubel. The first six criteria were not unanimous in the "yes" manner, therefore the request was denied and the BAA members did not consider criteria 7-10. Laven made a motion to deny, with the four suggested conditions prepared by the staff. This was seconded by Regenscheid. The motion to deny with conditions was then voted upon.				
VOTE	PASS ☒		FAIL ☐	VOTE: 4-0	

APPLICANT: KEITH AND LARINDA BURG

FILE #: PLN21-35

DESCRIPTION: CREATE A SUBSTANDARD LOT IN THE CONSERVANCY ZONE

APPLICANT COMMENT	Keith and Larinda Burg were present. Mr. Burg stated it was the intent of his father-in-law to provide enough land to locate all three sheds onto their property, in addition to room for two septic system sites. He also stated the acreage listed in the staff report was incorrect, rather it should be an additional 1.41 acres not the .29 acres as stated. Mrs. Burg also stated it was her father's intent to have the three sheds on their property and room for two septic systems.				
PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	Cheryl Michels, Belgrade Township Chair, presented the resolution opposing substandard lots in the Conservancy District. It is the position of the Township that this will take revenue away from the Township and they are experiencing financial hardship just like many other townships.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		

1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Ubel asked how many acres were taken for the County Road 41 project. The Burgs were unsure however the current lot is what is remaining from the project. Ubel also asked why they could not purchase additional land. Mrs. Burg stated it was not for sale, eventually her and her brother will own it but not right now. Laven asked if the lot was in compliance prior to the road project. Landkamer reviewed the older zoning maps and it appeared the lot was in the Ag District, with a 2.5 acres minimum lot size. Landkamer confirmed the initial request on the application was still applicable. The staff report contained the incorrect information regarding the additional acreage.				
VOTE	PASS ☒		FAIL ☐	VOTE: 4-1	

APPLICANT: MINNESOTA VALLEY LUTHERAN HIGH SCHOOL

FILE #: PLN21-37

DESCRIPTION: INSTALL A TYPE IV REPLACEMENT SEPTIC SYSTEM

APPLICANT COMMENT	Ken Opitz was present at the meeting. Glen Schilling introduced himself as the designer and installer of the septic system and inquired about the permit timeline due to the proposed phased installation.				
PUBLIC COMMENT	Marcy Bode called to inquire about the septic system and if it would impact her water.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Ubel stated he viewed the property and would make a motion for approval with the suggested conditions prepared by staff.				
VOTE	PASS ☒		FAIL ☐	VOTE: 4-0	

APPLICANT: DANIEL AND JULIE LONG

FILE #: PLN21-38

DESCRIPTION: REDUCE THE ORDINARY HIGH WATER LEVEL SETBACK FOR THE PURPOSE OF INSTALLING A REPLACEMENT SEPTIC SYSTEM

APPLICANT COMMENT	Daniel Long was present. He indicated his system is due to be replaced by March of 2022 and is working with Jadd Seppmann and Sons.				
PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
BOARD MEMBER DISCUSSION	None.				
VOTE	PASS ☒		FAIL ☐	VOTE: 4-0	

OLD BUSINESS		None.			
OTHER BUSINESS		None.			
REVIEW OF ADMINISTRATIVE VARIANCES		None.			
COMMUNICATIONS		Ubel requested staff look into after the fact request fees. Laven clarified who the staff contact will be related to zoning requests.			
MOTION TO ADJOURN		8:45 PM			
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO ADJOURN		PASS ☒	FAIL ☐	VOTE: 4-0	

DAVID WENDINGER, CHAIR		DATE	
-----------------------------------	--	-------------	--

MANDY LANDKAMER, COUNTY ADMINISTRATOR		DATE	
--	--	-------------	--

DRAFT



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant/

Date: September 20, 2021

Property Owner: Patrick and Shana Gieseke

File #: PLN21-32

Variance Requested: After-the-fact variance to: expand a nonconforming structure; reduce the bluff setback; reduce the front yard setback; alter a bluff area for the purpose of constructing a dwelling addition; reduce the front yard setback for the purpose of constructing a replacement septic system; and allow fill to be placed in a protected bluff.

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. "Practical difficulties" means that: the property owner proposes to use the property in a reasonable manner not permitted by an official control; and the plight of the landowner is due to circumstances unique to the property and not created by the landowner; and the variance will not alter the essential character of the locality. All six of the variance criteria must be answered "yes" in order for the variance to be granted.

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request is for an after-the-fact house addition, the replacement of the existing septic system, and the location of a secondary septic system site, which are not unreasonable on an existing residential site.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The property is presently used as a residential site and will remain residential in nature, however the structure will encroach into sensitive areas and does not follow county bluff setbacks, which is why a variance is requested.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The plight is not unique to the property. The plight is due to the landowners' decision to construct an addition within an existing bluff without obtaining the proper permits prior to construction.

4. The plight of the landowner is due to circumstances unique to the property.

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☐	☒	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☐	☒	☐	☐
Ron Regenscheid	☐	☒	☐	☐
Dave Ubel	☐	☒	☐	☐

WHY:

The plight was created by the landowners' decisions to construct a dwelling addition in the bluff setback without obtaining the proper zoning permit prior to construction.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The essential character of the locality will remain residential and natural environment.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request has topographic and locational considerations. Also, there is a burden/cost to the county to clean up eroded material in the ditch along County Road 21.

Additional After-the-Fact Criteria for use ONLY when the first six criteria are met.

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☐	☐	☐	☐
David Hermanson	☐	☐	☐	☐
Justin Laven	☐	☐	☐	☐
Ron Regenscheid	☐	☐	☐	☐
Dave Ubel	☐	☐	☐	☐

WHY:

8. In relation to the subject variance, are there similar structures in the area?

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

9. Does the burden of compliance on the applicant outweigh the benefit to the County?

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

10. Was the act of the violation by the applicant unintentional?

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☐ APPROVES) (☒ DENIES) THE REQUESTED VARIANCE

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____

VARIANCE CRITERIA

NOTE: According to Minnesota State Statute 394.27 Subd.7 “*practical difficulties*,” as used in connection with the granting of a variance, means that: the property owner proposes to use the property in a reasonable manner not permitted by an official control; **and** the plight of the landowner is due to circumstances unique to the property and not created by the landowner; **and** the variance will not alter the essential character of the locality.

*ALL SIX of the variance criteria **must** be answered
“True” in order for the variance to be granted.*

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

- The project involves an after-the-fact addition to an existing dwelling and the replacement of an existing septic system.
- Section 404.1(A) of the Nicollet County Zoning Ordinance states that nonconforming structures cannot be expanded except in conformance with the Ordinance. The request would result in a 100% variance to this standard.
- Section 603.4(2.A) of the Zoning Ordinance requires a 50-foot front yard setback from the right-of-way for county roads. The request would result in a 35% reduction of this standard for the after-the-fact dwelling addition and an 86% reduction of the standard for the replacement septic system.
- Section 603.4(5.A) of the Zoning Ordinance requires a 30-foot bluff setback from the point at which grade reaches 12%. The request would result in a 100% reduction of this standard because the after-the-fact dwelling addition is built within the original location of the bluff itself.
- Section 721.1(2) of the Zoning Ordinance requires that areas with a slope greater than 12% be protected from development. The request would result in a 100% variance to this standard.
- It is not unreasonable to construct a dwelling addition and garage on an existing residential building site that is in compliance with the Zoning Ordinance and has obtained the proper permits prior to construction.

2. The variance is consistent with the intent of the comprehensive plan:

- The county will ensure that land is used in an appropriate manner, by minimizing conflicts between land uses. The request appears to have increased the potential for conflicting land uses. Residential has expanded into natural environment that is already unstable due to the actively eroding ravine west of the dwelling. The project involved moving the bluff approximately 20 feet to the west of the original bluff location. It called for a 100% reduction in the bluff setback and a 100% reduction in the standard that areas with a slope of 12% and over be protected from development.
- The plan calls for the protection of sensitive natural features, including bluff land and agricultural land. The request fails to protect the bluff as a sensitive feature.
- The property is presently used for residential purposes. If approved, the property would remain residential in nature, but the structure would encroach further into sensitive features.

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

- The request does not appear to establish a practical difficulty.
- The variance request ranges from a 35% reduction in the front yard setback for the dwelling addition to a 100% reduction in the bluff setback.
- The plight is not unique to the property. The plight is due to the landowner’s decision to construct an addition within an existing bluff without obtaining the proper permits prior to construction.

- Regardless of whether the variance is approved, the essential character of the locality would remain natural environment and residential.

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

- The plight does not appear to be unique to the property. Within the county there are other building sites located within ravines. The plight was created by the landowner's decision to construct a dwelling addition in the bluff without a zoning permit. Had the applicants applied for a zoning permit, they would have been informed their proposal did not meet the standards of the Zoning Ordinance and the applicants would not be in the current situation of several variance requests.

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

- The essential character of the locality would remain natural environment and residential regardless of whether the variance is granted.
- There are other cuts in the bluff along County Road 21, but these cuts were either done before the adoption of the bluff standards, or were cut illegally.

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

- The applicant has not submitted any information to verify the practical difficulty includes more than economic considerations.
- However, it appears the request has topographic and locational considerations.
- Another consideration is the burden/cost to the county of clearing and cleaning up eroded material in the ditch or on County Road 21 for the safety of the travelling public.



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant/

Date: September 20, 2021

Property Owner: Keith and Larinda Burg

File #: PLN21-35

Variance Requested: Reduce the minimum lot size in the Conservancy zone

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	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request would reduce the lot to however there is room for the replacement of the septic system, a future septic system, and the three existing sheds on the property.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request would ensure adequate room for a septic system and a future septic system site. The additional land would also ensure the existing sheds would be located on the property with the existing principle structure.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	A practical difficulty exists due to the fact the request would require the applicants to purchase land that is not currently for sale.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The plight was created by the circumstances created by the reconstruction of County Road 41, previous amendments to the zoning ordinance, and the neighboring property not for sale at this time. The applicants also purchased enough land to address the septic system sites and the three existing sheds.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request will not alter the essential character of the locality since it will remain predominantly agricultural, natural environment, and municipal.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request includes design, locational, and topographical considerations. In addition, the applicants purchased the least amount of land to address the septic systems sites and the three existing sheds.

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

**THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE**

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant/

Date: September 20, 2021

Property Owner: Minnesota Valley Lutheran High School

File #: PLN21-37

Variance Requested: Install a type IV replacement septic system

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	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request allows for the timely replacement of a septic system for an existing high school with considerations of the waste strength.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The replacement septic system as proposed, will meet all setbacks and MPCA requirements for the existing high school.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request is due to the strength and flow of the sewage from an existing high school and the need for a timely replacement of the system.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The plight is due to the existing high school and the need for the timely replacement of a septic system. In addition, Section 734.5 (3.A.) of the Zoning Ordinance requires a variance be issued for Type IV systems to address the strength and flow.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request is for an existing high school and the need for the timely replacement of a septic system in an area that will remain predominantly agricultural, industrial, and natural environment.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request includes design, technical, and locational considerations.

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

**THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE**

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☒ Ubel

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant/

Date: September 20, 2021

Property Owner: Daniel and Julie Long

File #: PLN21-38

Variance Requested: Reduce the ordinary high water level setback for the purpose of installing a replacement septic system

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	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request allows for the replacement of an existing septic system. The request would place the system as far as is practically feasible from the ordinary high water level.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The replacement of the septic system would not increase the likelihood for land use conflict. The request would allow for the replacement of a noncompliant septic system that has failed a compliance inspection.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☒	☐	☐	☐	The request is due to the location of the existing house, the area topography and the design layout in respect to the proximity of a MNDNR protected waterway. Other septic systems have been located within the area of the MNDNR protected waterway.
David Hermanson	☐	☐	☐	☒	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The plight appears to be due to the location of the existing house in relation to Fritsche Creek. In addition, the Ordinary High Water level setback was adopted in 1992 requiring a 200' setback.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The essential character of the locality will remain predominantly residential and natural environment.

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

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☐	☐	☐	☒
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY:

The request includes design, locational, and topographic considerations.

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

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:

(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____