



BOARD OF ADJUSTMENT AND APPEALS

March 21, 2022

7:00 PM

Doors Open at 6:45 PM

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

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: *January 24, 2022*
5. Public Appearances
6. **Public Hearing: PLN 22-02**
Applicant/Landowner: Toby & Amanda Freier
Request: To construct an accessory structure closer to the front property line than the primary structure
Location: Lot five, block one, of the Horizon Acres Subdivision in West Newton Township
Parcel Number: 13.551.0050
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

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.



Board of Adjustment & Appeals

MINUTES

JANUARY 24, 2022

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	David Ubel ☐		
ABSENT EXCUSED	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	David Ubel ☐		
ABSENT	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	David Ubel ☐		
STAFF PRESENT	County Administrator Mandy Landkamer ☒ Assistant County Attorney (ACA) Megan E. Gaudette Coryell ☐ Other Staff: ☒ Pete Otterness, PPSD Assistant Director ☐ Jaci Kopet, PPSD Director				

ELECTION OF OFFICERS

CHAIR	Board Member Hermanson nominated Justin Laven for Chair, seconded by Ubel. The Board voted to unanimously to elect Laven as Chair for 2022.
VICE CHAIR	Board Member Ubel nominated David Hermanson for Vice-Chair, seconded by Laven. The Board voted to unanimously to elect Hermanson as Vice-Chair for 2022.

REVIEW OF CANCELLATIONS & ADDITIONS

None

MOTION TO APPROVE MINUTES OF DECEMBER 20, 2021

APPROVE ☒

APPROVE WITH REVISIONS ☐

1ST	☒ Hermanson	☐ Laven	☐ Ubel		
2ND	☐ Hermanson	☐ Laven	☒ Ubel		
VOTE TO APPROVE MINUTES	PASS ☒	FAIL ☐	VOTE: 3-0		

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-40, CARLBLOM AND PLN21-41, STENSON/STENSON LIVING TRUST

APPROVE ☒

APPROVE WITH REVISIONS ☐

1ST	☐ Hermanson	☐ Laven	☒ Ubel		
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2 ND	☒ Hermanson	☐ Laven	☐ Ubel		
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 3-0	

PUBLIC APPEARANCES	None
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PUBLIC HEARINGS: None

OLD BUSINESS		None			
OTHER BUSINESS		None			
REVIEW OF ADMINISTRATIVE VARIANCES		None			
COMMUNICATIONS		None			
MOTION TO ADJOURN					
1 ST	☐ Hermanson	☐ Laven	☒ Ubel		
2 ND	☒ Hermanson	☐ Laven	☐ Ubel		
VOTE TO ADJOURN		PASS ☒	FAIL ☐	VOTE: 3-0	

JUSTIN LAVEN, CHAIR		DATE	
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MANDY LANDKAMER, COUNTY ADMINISTRATOR		DATE	
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VARIANCE

**TO ALLOW AN ACCESSORY
STRUCTURE CLOSER TO THE
FRONT LOT LINE THAN THE
PRINCIPAL BUILDING**

Toby & Amanda Freier

PLN22-02

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	Variance PLN22-002
APPLICANT:	Toby Freier
LANDOWNER:	Toby & Amanda Freier
LOCATION:	Lot five, block one, of the Horizon Acres Subdivision in West Newton Township
PARCEL NO:	13.551.0050
EXISTING ZONING:	Urban-Rural Residential (R-1), Conservancy
HEARING DATE:	March 21 st , 2022

REQUEST

Toby Freier has submitted a variance request to construct an accessory structure closer to the front property line than the primary structure within the Conservancy and R-1 Zoning Districts.

PROJECT DESCRIPTION

The applicant is proposing the construction of a 26' by 32' detached garage in a location that is closer to the front property line than the existing dwelling. The dwelling is 200.4' from the front property line and 21.6' from the western side property line, whereas the proposed garage is 141.6' from the front property line and 13' from the western side property line.

COUNTY STANDARDS

The applicants are requesting a variance from Section 703.1(1) of the Zoning Ordinance:

No accessory building shall be located nearer the front lot line than the principal building on the lot.

The accessory structure setback ordinance for the R-1 District was adopted in 1992.

EXISTING LAND USE

The 1.26 acre lot currently has a single family home with an attached garage. The property contains bluffs (slopes over 12%) to the north, south, and east. The highest elevation is in the north of the

property; it slopes down southwards, generally levels out in the middle, and steeply slopes down at the southern tip past the dwelling.

SURROUNDING LAND USE

The lot is part of the Horizon Acres Subdivision and is surrounded by similar residential homes, with the exception of the area to the south which is undeveloped bluff land. Beyond the bluff to the south is wetlands and the Minnesota River. The City of New Ulm is about 1.9 miles to the southeast.

SOIL SITE INFORMATION

Plainfield Loamy Sand

- Slope: 6 to 15 percent
- Depth to restrictive feature: More than 80 inches
- Drainage class: Excessively drained
- Capacity of the most limiting layer to transmit water (Ksat): High to very high (5.95 to 19.98 in/hr)
- Depth to water table: More than 80 inches
- Frequency of flooding: None
- Frequency of ponding: None
- Available water supply, 0 to 60 inches: Low (about 3.7 inches)

Belview-Omsrud Complex

- Slope: 22 to 40 percent
- Depth to restrictive feature: More than 80 inches
- Drainage class: Well drained
- Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.20 to 2.00 in/hr)
- Depth to water table: More than 80 inches
- Frequency of flooding: None
- Frequency of ponding: None
- Calcium carbonate, maximum content: 25 percent
- Maximum salinity: Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)
- Available water supply, 0 to 60 inches: High (about 11.1 inches)

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.

SITE REVIEW

A review of the site was completed by Property Services staff on March 8th, 2022. Staff observed the proposed construction area and took pictures.

PUBLIC COMMENTS

One individual requested a copy of the site plan which was provided via email. No objection was raised to the proposal.

VARIANCE CRITERIA

NOTE: According to Minnesota Statutes Section 394.27, subdivision 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 intent of the accessory building setback in residential districts is to create a uniform character within those districts.
 - The request would result in a 29.34% reduction in the accessory building residential setback.
2. **The variance is consistent with the intent of the comprehensive plan:**
 - The proposal supports the conservation of the area's natural resources by attempting to minimize impacts to the bluff.
3. **The variance establishes a practical difficulty in complying with the official controls:**
 - Without the variance, the applicant is not denied reasonable use of the property (e.g., for use as a dwelling site).

- The dwelling is located in the southern portion of the lot, leaving the homeowner with a small area to place an accessory structure in compliance with Section 703.1(1). The proposal must also be 30 feet from any bluffline per Section 604.4(5). The existence of bluffs in the south and east of the property means the owner has no way to comply with both regulations.
- 4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner:**
- The plight is related to the desire of the landowner to construct an accessory structure on the property. The applicant is not denied reasonable use of the property.
 - The landowners has no legal way to place an accessory structure of the proposed size without receiving a variance to Section 604.4(5) or 703.1(1).
 - The landowner could lessen the variance request by proposing the accessory structure closer to the dwelling, while also remaining outside of the bluff setback.
- 5. The variance will not alter the essential character of the locality:**
- The proposal will not greatly alter the essential character of the locality. There is an accessory structure in the same subdivision that is located partially in the right-of-way, whereas the associated house is set further back. However, there are several accessory structures in the same subdivision that are flush with the primary structure or located in the rear yard.
 - The proposal is partially shielded from view by topography and trees on the property.
- 6. The practical difficulty includes more than economic considerations alone:**
- The request appears to include more than economic considerations alone. The request is based on the existing dwelling location and topography of the property.

RECOMMENDED CONDITIONS

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

1. The applicants undertake 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 applicants must obtain the appropriate zoning permits prior to construction.

4. The zoning permit is invalid if the permit holder has not substantially completed the accessory structure within the period of time allowed on the zoning permit connected with this variance.
5. The applicant must pass an STSS compliance inspection before the zoning permit is issued.

**Applicants/Property Owners:
Toby & Amanda Freier**

PLN22-002

ATTACHMENT A	Application
	A.1 Permit application
	A.2 Survey
	A.3 Legal Description
	A.4 Variance Questionnaire
	A.5 Project Description Questionnaire
ATTACHMENT B	Location Map
ATTACHMENT C	Aerial Map
ATTACHMENT D	Neighbor Notification List
ATTACHMENT E	Criteria for a Variance



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

BOARD OF ADJUSTMENT & APPEALS
APPLICATION

Total Fees: \$496.00

Map#: 0901101005
Parcel# 135510050
Permit#: PLN22-00002
Date: February 23, 2022

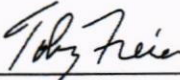
Applicant: FREIER TOBY & AMANDA FREIER, , 61797 SUNSET LN, NEW ULM MN 56073-4211
Phone: 507-276-8514
Owner: FREIER TOBY & AMANDA FREIER, 61797 SUNSET LN, NEW ULM MN 56073-4211
Property Address: 61797 SUNSET LN, NEW ULM MN 56073
Abbreviated Legal Description: Block 1 Lot 5 SubdivisionCd 13551 SubdivisionName HORIZON ACRES
Township: West Newton Township

Record Type: Variance

Category: Front Yard

Project Description: Variance request to allow an accessory 26' x 32' garage closer to the front property line than the primary structure.

Hearing Date: 03/21/2022

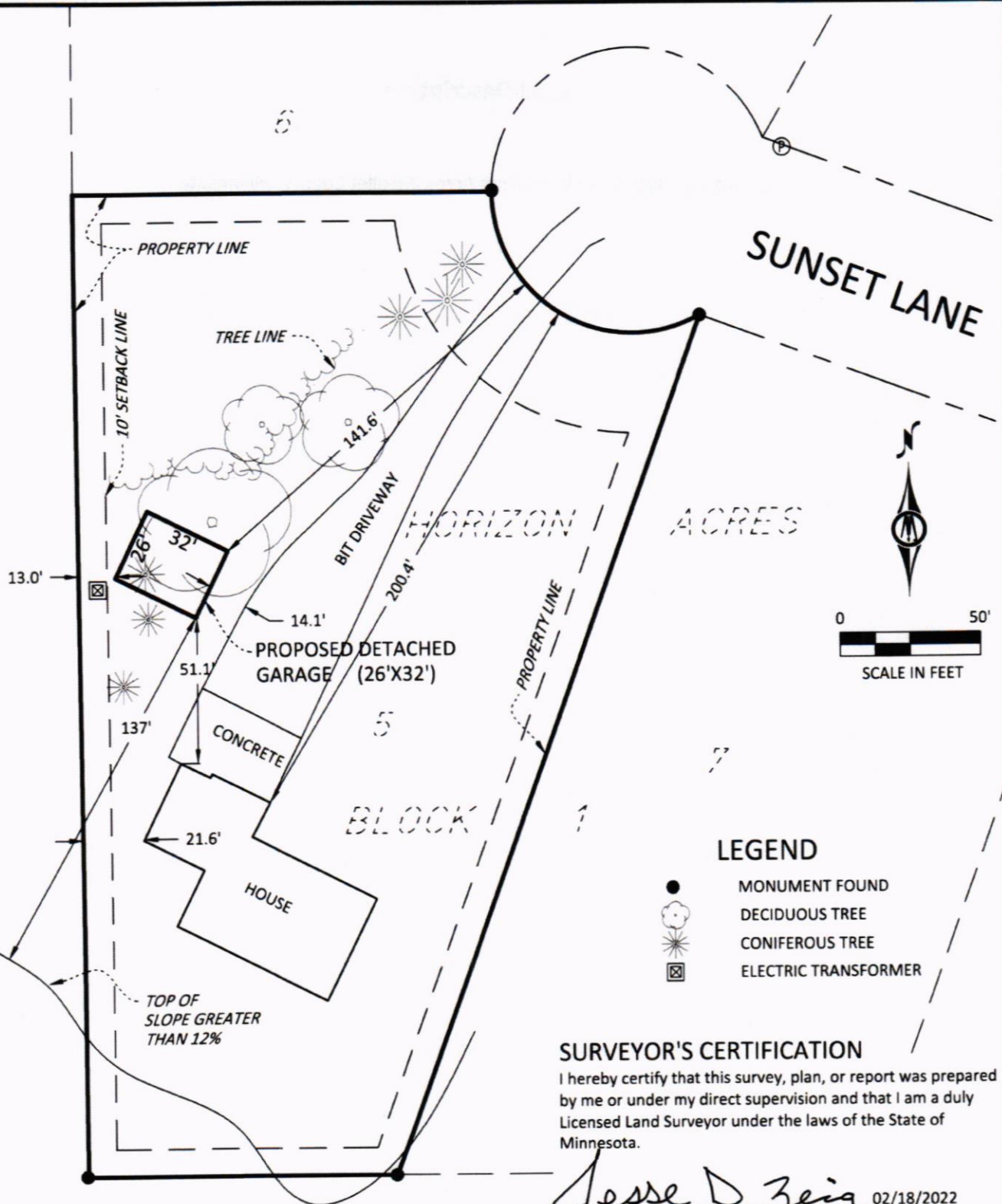


APPLICANT SIGNATURE

02-23-2022

DATE

H:\FREIERTO PR\051126618\CAD\C3D\126618V601.dwg 2/18/2022 3:03 PM



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 02/18/2022
Jesse D. Zeig Date
License Number 44996

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VARIANCE SKETCH
WEST NEWTON TOWNSHIP, NICOLLET COUNTY, MINNESOTA



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

LOT 5, BLOCK 1, HORIZON ACRES
SECTION 1-110-31

FOR: TOBY FREIER

JOB NUMBER: 051.126618

FIELD BOOK: MISC SURVEY 15 PG 40 DRAWN BY: DK

Attachment A.2
Survey

Legal Description

Lot Five (5), Block One (1), Horizon Acres, Nicollet County, Minnesota

Name of Applicant: Toby Freier

Date: 2/18/22

Request: Permit for Detached Garage

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.
The front yard setback standard is intended to provide a buffer between land uses (transportation and residential)
The proposed variance would decrease the setback from the detached garage to the front right of way but
still maintain at 141 feet.

2. The variance is consistent with the intent of the Comprehensive Plan.
The property is zoned urban residential R-1
The proposal is to add a 26' x 32' detached garage structure to the property for storage.

3. The variance establishes a practical difficulty in complying with the official controls.
The proposed structure does not increase land use conflict given existing residential subdivision and being adjacent to residence.
The proposed garage will use like colors to match other structures on the property.

4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
We purchased this home in 2020 and have desired to add a detached garage to the property. Unfortunately there is no
location on the property to add a detached garage while also complying with all the setback requirements for sides, front
and rear / ravine.

(Continued onto back)

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

The steel sided detached garage will match the house and garden shed with neutral colors. The size and location will not alter the character of the property which is residential. There are other similar detached garage buildings in this subdivision which are equal to or larger than the proposed structure. These other structures are also closer to the roadway / Sunset Lane than this proposed garage structure.

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

There is no location on the property that complies with setback requirements given the original placement of the house/residence.

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



**VARIANCE APPLICANT QUESTIONNAIRE
PROJECT DESCRIPTION**

Name of Applicant: Toby Freier

Date: 2/18/22

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.

We are proposing to add a steel detached garage with dimensions of 26' x 32' on the West side of our lot. Our family purchased this property in 2020 with the intention of adding a detached garage for additional storage for vehicles, boat, and other items used to care for this property such as riding lawn mower and/or snow removal UTV.

From our review of the survey there is no alternative location on the property for the construction of a detached garage without requiring a variance to comply with front, side, and rear setback requirements.

We do not feel it is reasonable to be forever restricted from adding an additional detached structure on this lot given the significant distance that will still be maintained from the front right of way.

thank you for your consideration.





Attachment C
Aerial Map

Toby & Amanda Freier
61797 Sunset Ln
New Ulm, MN 56073

James & Elizabeth Murray
61785 Sunset Ln
New Ulm, MN 56073

Mark & Claudia Gleisner
61737 Sunset Ln
New Ulm, MN 56073

Ronald Brown & Victoria Wang
61715 Sunset Ln
New Ulm, MN 56073

Gregory & Amanda Wendinger
61697 Valley High Rd
New Ulm, MN 56073

Karen Vanderbosch Revocable Trust
8246 Enclave Rd
Woodbury, MN 55125

Renate Raabe
925 N Payne St
New Ulm, MN 56073

Robert & Lori Pietz
61851 Zempel Dr
New Ulm, MN 56073

Glenn & Lois Bode
24 Woodland Dr
New Ulm, MN 56073

Frank & Arlene Matter
61935 Zempel Dr
New Ulm, MN 56073

Jeremy & Nancy Blankenhagen
61940 400th Ln
New Ulm, MN 56073

Bruce & Lisa Compton
61936 Zempel Dr
New Ulm, MN 56073

Robert Beranek
39866 615th Ave
New Ulm, MN 56073

David & Susan Guggisberg
61794 Sunset Ln
New Ulm, MN 56073

Dennis Wegner
40004 615th Ave
New Ulm, MN 56073

Amy Zinniel
61710 Sunset Ln
New Ulm, MN 56073

Bonnie Brandel
West newton Township
63152 388th Ln
New Ulm, MN 56073



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS **CRITERIA FOR GRANTING A VARIANCE**

Name of Applicant/ Toby Freier
Property Owner: Toby & Amanda Freier

Date: March 21, 2022

File #: PLN22-002

Variance Requested: Construct an accessory structure closer to the front property line than the primary structure within the Conservancy, Shoreland, and R-1 Zoning Districts.

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>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

Attachment E
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	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	
Lloyd Hoffmann	☐	☐	☐	☐	
	☐	☐	☐	☐	
	☐	☐	☐	☐	

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:

- ☐ Laven
- ☐ Hermanson
- ☐ Ubel
- ☐ Hoffmann

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: _____