

# TOWNSHIP COOPERATIVE PLANNING ASSOCIATION

4111 11<sup>th</sup> Avenue SW Room 10  
Rochester, MN 55902

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-- TCPA --

Date: 05/29/2024

To: Oronoco Township Board of Adjustment  
Drew & Dana DeWitz

Re: Variance Request - Section 2 – Oronoco Township

Public Hearing: On Monday, June 10<sup>th</sup>, 2024, after 5:30 p.m. the Oronoco Township Board of Adjustment will hold a public hearing at the Oronoco City Hall, 115 2nd Street NW, Oronoco, MN 55960 regarding:

Request: This meeting was previously noticed and advertised but the decision was tabled at the May 13<sup>th</sup>, 2024, meeting due to changes in the variance request.

An application for variances to the criteria for the construction of an accessory building in an R-1; Low Density Residential District. The applicant wishes to replace an existing accessory structure with a new structure that is both larger and taller than allowed by the ordinance as well as being closer to the road than allowed by the ordinance.

Proposed Accessory Building Size:

1,904 sq.ft. – 1,500 sq.ft. allowed – 404 sq.ft. variance.

Proposed Accessory Building Height:

17.58' – 15' allowed – 2.58' variance.

Proposed Distance to Road Right-of-Way:

10' – 30' required distance to right-of-way – 20' variance.

Note: At the May 13<sup>th</sup>, 2024, Town Board meeting the Board discussed the potential of abandoning this section of 125<sup>th</sup> Street as it only serves two dwellings. If the road is abandoned, it would eliminate the applicant's need for a variance to the front yard setback. The applicant still wishes to go forward with the setback variance so he can get his building constructed this year.

Owner/Applicant: Drew & Dana DeWitz – 15 125th Street NE – Rochester, MN 55906

Legal Description: Parcel #: 840244040380  
SECT-02 TWP-108 RANGE-014 OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62

AND 70 EX TH PT OF LOT 62 LYING S OF S LINE SEC 2 108-14

Zoning: R-1 Low-Density Residential District.

Ordinance: Oronoco Township Zoning Ordinance

Section 6.02 R 1 LOW DENSITY RESIDENTIAL DISTRICT:

C. General District Regulations:

3. Front Yard Regulations:

- a) A minimum front yard depth of not less than forty-five (45) feet shall be provided on all lots adjoining federal, state, and county roads.
- b) A minimum front yard depth of not less than thirty (30) feet shall be provided on lots adjoining local roads and streets.

4. Side Yard Regulations:

- a) A minimum side street yard width of not less than forty-five (45) feet shall be provided on all lots adjoining federal, state, and county roads.
- b) A minimum side street yard width of not less than thirty (30) feet shall be provided on all lots adjoining local roads and streets.
- c) A minimum interior side yard width of not less than eight (8) feet shall be provided.

5. Rear Yard Regulations:

- a) A minimum rear yard depth of not less than twenty-five (25) feet shall be provided.

Section 10.22 ACCESSORY BUILDINGS:

B. Accessory Building Regulations Applicable to the RSD, R-1, and R-2, ARC – Residential Area Districts and Non-Farm Parcels in the A-4 District:

1. In the R-1, ARC – Residential Area, and RSD Districts, accessory buildings may be located in the buildable area or within the rear yard. In the case of an accessory building located in the rear yard, such building may be located not less than five (5) feet from an interior side lot line and not less than eight (8) feet from a rear lot line. The maximum cumulative gross floor area (measured on the largest floor and including interior parking spaces) for accessory structures shall be according to the following schedule:
  - For lots with a lot area of less than one (1) acres -- One thousand (1,000) square feet.
  - For lots with a lot area of at least one (1) acre but less than two (2) acres -- twelve hundred (1,200) square feet.
  - For lots with a lot area of two (2) acres or greater -- fifteen hundred (1,500) square feet.

4. No accessory building shall be located closer to a right-of-way than allowed in the front yard or side street yard regulations of the district wherein located.
5. In the R-1 District, R-2 District, and ARC – Residential Area, and any residential property in an RSD District, no accessory structure shall exceed a building height of 15 feet.

Review List: Olmsted County Planning  
 Olmsted County Health Department  
 Minnesota Pollution Control  
 Olmsted County Public Works  
 Olmsted County Soil and Water  
 Minnesota Department of Natural Resources  
 GGG Engineering

Attachments:

1. Application	pages 8, 9, &10
2. Applicant’s Site Maps	pages 11,12, & 13
3. Location Map	page 15
4. Aerial Photo Map	page 16
5. Zoning Map	page 17
6. Elevation Map	page 18
7. Flood Maps	page 19
8. Previous Recorded Variance	pages 20, 21, & 22

SECTION 4.08 VARIANCES

A. Criteria for Granting a Variance: A variance may be granted only when the applicant for the variance establishes that there are practical difficulties in complying with the official control. Economic considerations do not constitute practical difficulties. The Oronoco Board of Adjustment must find evidence that all of the following facts and conditions exist:

1. There are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district;
2. The extraordinary conditions or circumstances are due to circumstances unique to the property not created by the landowner;
3. The variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that the property can be used in a reasonable manner not permitted by the ordinance;
4. The variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, and will not alter the essential character of the locality;
5. The variance is in harmony with the general purpose and intent of this ordinance; and
6. The terms of the variance are consistent with the comprehensive plan.

Analysis:

The owner/applicant wishes to construct an accessory structure that, per their application, requires the following variances:

**A variance for the proposed size of the structure.** The property is zoned R-1; Low Density Residential District and is over two acres in size. Section 10.22 of the ordinance limits accessory building size, on a parcel of two acres or more, to 1,500 sq.ft.. The proposed structure would be 1,904 sq.ft. (34' x 56') requiring a variance of 404 sq.ft..

**A variance for the proposed height of the structure.** Again, Section 10.22 of the ordinance limits accessory building height in the R-1 District to no more than 15'. However, the height of a building with a gable style roof - as proposed - is determined as the distance halfway between the eave and peak. I.e. if the eave height from the ground is 10' and the peak of the roof from the ground is 20' the height of the building is considered to be 15'. Per the applicant's new variance application the proposed height of the accessory structure - calculated as per the ordinance described above - is 17.58' requiring a height variance of 2.58 feet.

**A variance for the proposed front yard setback.** On a local road any structure must be set back 30' from the edge of the road right-of-way. The road right-of-way is somewhat subjective in this area. To the east of the subject property 125<sup>th</sup> Street has a typical 66' Township Road right-of-way. In the approximate center of the subject property, Shorewood Lane joins 125<sup>th</sup> Street at a roughly 30-degree angle. From this point to the dead-end of the road, at the edge of Lake Zumbro, the mapped right-of-way is 100' wide; with most of that right-of-way on the south side of the physical roadway. The setback from the center of the actual physical road and the setback from the middle of the road right-of-way are nearly the same. For the purpose of this variance, we have used the center of the mapped right of way to calculate the required front yard setback. Per the owner's new site plan, he is able to meet the 100' required setback to the OHWM - Ordinary High-Water Mark - but the building would be within 10 feet of the road right of way thereby requiring a variance of 20 feet to the road setback.

Variance Criteria:

An analysis of the criteria for granting a variance is as follows;  
*(staff comments in italics)*

1. There are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district;

*There's no question the subject parcel is irregular and narrow and also limited by its proximity to the shore of Lake Zumbro and the Shoreland District. An irregular lot line would be typical of any lot that borders a water source - whether it's a lake or a river. At least one property line typically follows a shoreline. The subject property is*

*somewhat unique when compared to other parcels within this area. Many, if not most of the shoreline lots in this area are situated perpendicular to the lake whereas the subject property parallels the lake. A 2.5-acre lot that is perpendicular to the lake has the benefit of more land area that is not immediately adjacent to the water. Because the subject parcel parallels the lake the entire parcel is affected by the lakeshore.*

*This criterion is met.*

2. The extraordinary conditions or circumstances are due to circumstances unique to the property not created by the landowner;

*Was the size and shape of the lot and its proximity to the lakeshore and the road – in other words the extraordinary conditions or circumstances described above – created by the owner? No. Then again, it's not as though the size, shape, and proximity of the parcel has changed since the owner purchased the property.*

*This criterion is met.*

3. The variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that the property can be used in a reasonable manner not permitted by the ordinance;

***Size Variance:***

*This criterion is more complicated as it can be subjective. Being able to use the property in a reasonable manner depends on any one person's opinion of what is reasonable. To someone, i.e. with a boat, and a jet ski or two, a motor home, lawn furniture, need for a workshop, etc... the proposed shed at 34' x 56' may not be nearly big enough. Whereas someone who uses this property as a weekend home may not need any more space than already exists within the current structures.*

*The ordinance, in criteria #1 and #2 talks about the subject lot and the area – is it like other lots in the area. The intent of the ordinance is to determine reasonableness by a comparison of what is reasonable for the area and other similar properties. A brief analysis of other dwelling parcels in the immediate area and across the lake to the west revealed only a couple of other parcels with similar (total) size of accessory building space.*

*This criterion does not appear to be met. However, the Board of Adjustment should consider information contained herein, potential comments from Reviewers and any potential public comment before deciding whether this proposal meets this criterion.*

***Setback Variance:***

*As described previously this variance is based on the proposed accessory structure meeting the 100' setback from the OHWM and keeping the structure in the same general location as proposed by the applicant. The setbacks and*

*building location were determined by Staff utilizing the County GIS measuring tools.*

*Meeting the OHWM required setback, the septic field and secondary septic field setbacks, as well as the road setback – on this narrow lot - makes locating a structure of any size, difficult.*

*The Township did discuss, at the May 13<sup>th</sup> meeting on this variance, the potential of abandoning 125<sup>th</sup> Street between the subject property and the neighboring property to the south. If, at some point, the Township does decide to abandon that section of 125<sup>th</sup> Street it would eliminate the applicant's need for a road setback. However, the applicant wishes to get his building constructed this summer and so is continuing to seek the front yard setback variance.*

*This criterion appears to be met. The Board of Adjustment should still consider information contained herein, potential comments from Reviewers and any potential public comment before deciding whether this proposal meets this criterion.*

***Height Variance:***

*The applicant works on his own vehicles and wants to install a vehicle lift in the proposed accessory structure. The lift requires additional interior ceiling height, which in turn, requires a greater sidewall and peak height. While certainly not everyone with a detached accessory structure works on their own vehicles requiring a height variance, it is not an unreasonable request. Often times property owners with motor homes ask for height variances to accommodate their motor home.*

*This criterion appears to be met. The Board of Adjustment should still consider information contained herein, potential comments from Reviewers and any potential public comment before deciding whether this proposal meets this criterion.*

4. The variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, and will not alter the essential character of the locality;

*The majority of dwelling parcels in this area have detached accessory structures. In addition, there are agriculturally zoned properties intermixed within this area with larger accessory structures. The presence of an accessory structure that is 404 sq.ft. larger, two and a half feet taller than allowed, and that is somewhat closer to the road right-of-way will not be materially detrimental to the public welfare or materially injurious to other property in the area.*

*This criterion is met.*

5. The variance is in harmony with the general purpose and intent of this ordinance;

*The purpose and intent of the Oronoco Township ordinance reads in part;*

*“This Zoning Ordinance is enacted . . . by lessening congestion in the public right-of ways; securing safety from fire, panic and other dangers; providing adequate light and air; facilitating the adequate provision of water, sewerage and other public facilities; conserving the value of properties and encouraging the most appropriate use of the land; and to protect the environment . . .”*

*It would seem the proposed variances fall short of being in harmony with the general purpose and intent of the ordinance. Allowing a structure to be closer to the front yard setback than is allowed by the ordinance could be construed to be adding to the congestion of public rights-of-way. Conversely, the proposed structure that is larger, closer to the road, and potentially taller than allowed, likely has no adverse effect on the potential for fire or panic and other dangers, nor would it adversely affect light and air.*

*This criterion does not appear to be met. However, the Board of Adjustment should consider information contained herein, potential comments from Reviewers and any potential public comment before deciding whether this proposal meets this criterion.*

6. The terms of the variance are consistent with the comprehensive plan.

*The surrounding area is either within the Resource Protection or Suburban Subdivision Area(s) of the Olmsted County Land Use Plan. The subject property being within the Suburban Subdivision area of the LUP. The proposed accessory structure does not conflict with the comprehensive plan.*

*This criterion is met.*

Conclusion: Staff has reviewed the variance request(s) in accordance with the Oronoco Township Ordinance Section 4.08 – Variances.

While not all six criteria are explicitly met, the Board of Adjustment should consider the information contained herein, potential comments from Reviewers and any potential public comment before deciding whether this proposal should be granted.

OTV-24-01

TOWNSHIP COOPERATIVE PLANNING ASSOCIATION

TCPA
4111 11th Avenue SW
Room 10
Rochester, MN 55902

VARIANCE APPLICATION

PH: 507-529-0774
FX: 507-281-6821
EM: mail@tcpamn.org
WEB: www.tcpamn.org

TOWNSHIP: Oronoco

DATE: 04/15/2024

PROPERTY OWNER: Drew & Dana DeWitz

PHONE #: 507-251-7902

PROPERTY ADDRESS: 15 125th Street NE

CITY: Rochester

STATE: MN

ZIP: 55906

PROPERTY PARCEL #: 84.02.44.040380

dddewitz@bevcomm.net

VARIANCE DESCRIPTION & REASON FOR VARIANCE REQUEST:

Replacement of an existing 26' x 28' accessory building with a larger 56' x 34' building. Size will exceed ordinance allowed 1,500 sq.ft. by 404 sq.ft.. Total size 1904 sq.ft.. Accessory building height will exceed ordinance allowed 15' height by 2.58 feet Total height 17.58'. Setback from road - so that building meets

EXISTING USE OF PROPERTY:

Single Family Homestead

HAS A VARIANCE BEEN SOUGHT FOR THIS PROPERTY BEFORE?:

[checked] - YES [ ] - NO

IF SO WHEN?: 1999

APPLICANT SIGNATURE:

FILING FEE: 582.00

SIGNATURE DATE:

04/15/2024

APPLICATION COMPLETE DATE:

04.15.2024 (TCPA)

60-DAY DATE:

06.14.2024 (TCPA)

VARIANCE QUESTIONS: (Answer all of the following questions. Use a separate sheet if necessary.)

A variance may be granted only when the you can establish that there are practical difficulties in complying with the zoning ordinance. Economic considerations do not constitute practical difficulties. For the Board of Adjustment to grant your variance you must provide evidence that all of the following facts and conditions exist;

- 1) Explain and illustrate that there are extraordinary conditions or circumstances, like an irregular or especially narrow or shallow lot, or exceptional topographical or physical conditions, which are peculiar to your property and that do not exist on other lots or land in your same neighborhood or zoning district. Provide an aerial map/drawing to illustrate.

Lot is approximately 2.6 acres located between 125th Street dead end road and the shores of Lake Zumbro. Although we own 1000 feet of shoreline, the lot varies in depth from approximately 120' to 190'. This would be considered irregular shaped and narrow in certain areas of the property. Because of the irregular shoreline and the required 100' setback from the OHWM and the existing septic field and secondary septic filed location, locating the property accessory building without being closer to the road than allowed is almost impossible. A 34' deep accessory building is not overly large for the area. I want to be able to install a car lift in my building so I can work on my own cars and to do that requires a higher sidewall - which in turn requires a higher roof peak - and overall building height.

COMPLETE BOTH SIDES OF THIS APPLICATION

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VARIANCE QUESTIONS: - continued

- 2) Explain and provide reasoning that the above extraordinary conditions or circumstances are unique to your property and that the circumstances or conditions were not created by you.

This is a unique lot that was created when lot requirements were not as they are today. The varying depth of lot along the shores of Lake Zumbro are nature's work and not created by me or previous owners.

- 3) Explain why the variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that your property can be used in a reasonable manner not permitted by the ordinance.

As mentioned previously the height of the building is necessary to enable the installation of an automotive lift. And again, the irregular shoreline and the fact the lot is parallel to the water's edge - as opposed to perpendicular as most waterfront lots, leaves me minimal room for the other typical uses on a dwelling parcel - like this accessory building.

- 4) Explain how the variance will not be detrimental to the general public welfare or negatively affect your neighbors property value or their enjoyment of their property and that the variance will not alter the character of your neighborhood or area.

The variance will have no adverse effect on the character of the neighborhood. It is simply the replacement of one older building with another esthetically pleasing new construction building. If anything, it will increase values in the neighborhood.

- 5) Explain why there is no alternative to your request. And if there are alternatives explain why those alternatives are not worthy of consideration.

There is no alternative for the distance from the road setback if I am to meet the 100' shoreline setback. Additionally, a smaller building would not allow for the minimum storage required by our possessions and height is required for the automotive lift being installed. Storing recreational vehicles and boats outdoors on my property has proven to be a documented theft risk. Interior lockable storage is required for our RVs, vehicles, lawn equipment & other possessions.

You must provide a site plan for your proposed variance showing the following:

- Entrance and exit driveway(s).
- All structures on your property showing distances from lot lines, septic and well and other structures.
- If this a setback variance—show where the proposed structure will be located.

This Variance application will be considered incomplete and no action will be taken until the TCPA office is in receipt of; a.) this completed application form; b.) the site plan; c.) the filing fee.

**COMPLETE BOTH SIDES OF THIS APPLICATION**

## David

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**From:** Drew Dewitz <dddewitz@bevcomm.net>  
**Sent:** Friday, May 17, 2024 1:17 PM  
**To:** David  
**Subject:** Re: Updated Variance  
**Attachments:** Existing - New Site Plan Rev 5-17-24.docx

Hello Dave,

Please see new "final" site plan. I have verified I can fit the driveway and building this size between the restrictions of existing septic and reserved septic and stay 100' from OHWM. I had to go less wide by 8' but added 4' to the depth. On the site plan I put the measurements from my corner stakes to the physical road edge. Because I have no way of finding the virtual R/W line. and measuring to that. My guess is that it'll be around 10 feet.

I officially am withdrawing my variance request to the OHWL. Let me know if I need to fill out a form or anything to withdraw that?

My comments:

On your analysis for size variance you point out very good points that this general area being a recreational lake has different expectations for what size building is reasonable. I agree. With multiple boats, many snowmobiles, four place snowmobile trailer, snow plow truck, mowers, four-wheelers, multiple collectable sports cars, an automotive lift, a welding shop, and other general hobby space - I believe I could use more space. Let me point out how in general my request for 1904 ft<sup>2</sup> aligns with the general intent of the ordinance. Lots of < 1 acre may have a 1000 ft<sup>2</sup> accessory. Lots > 1 but less than 2 may have 1200 ft<sup>2</sup>. Finally lots >2 acres may have a 1500 ft<sup>2</sup> accessory building. My lot is over 2.5 acres and if you extrapolate the increasing allowed size the ordinance allows, my request for a variance of 404 ft<sup>2</sup> is reasonably close to the scale. For the above reasons, please reconsider whether that criterion is met.

Thanks again Dave! Let me know if you need further information or clarification.

Regards,  
Drew DeWitz

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**From:** "Home" <dddewitz@bevcomm.net>  
**To:** "David Meir david@tcpamn.org" <david@tcpamn.org>  
**Sent:** Wednesday, May 15, 2024 12:34:42 PM  
**Subject:** Re: Updated Variance

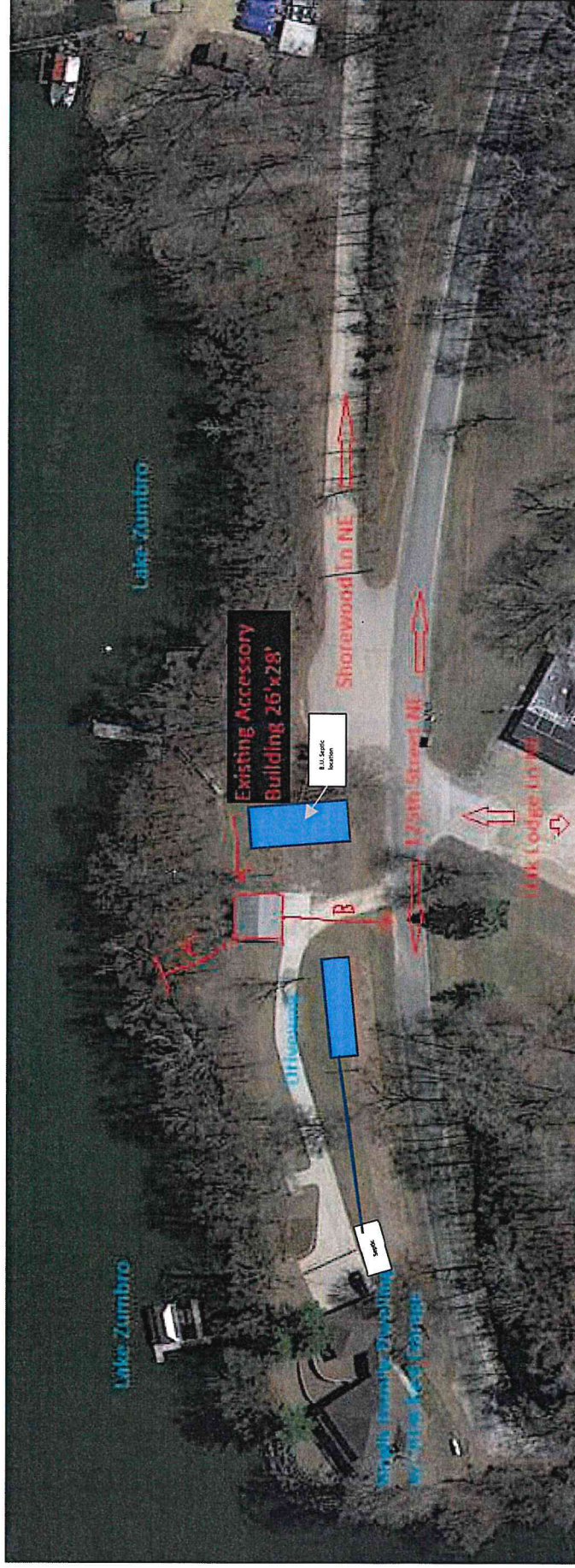
Hello David,

I want to thank you again for your participation in Mondays meeting and sticking with us through the rollercoaster of changes! I've gone thru a couple scenarios with size and reshaping the building. We will decide tonight and I do think I can have it to you Friday. I'll also include some narrative of my perspective about the items your report noted as "does not meet the criteria" - for you to consider. Thanks again and please know we appreciate your work and involvement in this endeavor!

Kind Regards,  
Drew & Dana DeWitz

Sent from the iPhone of Drew DeWitz

D. DeWitz – Variance request



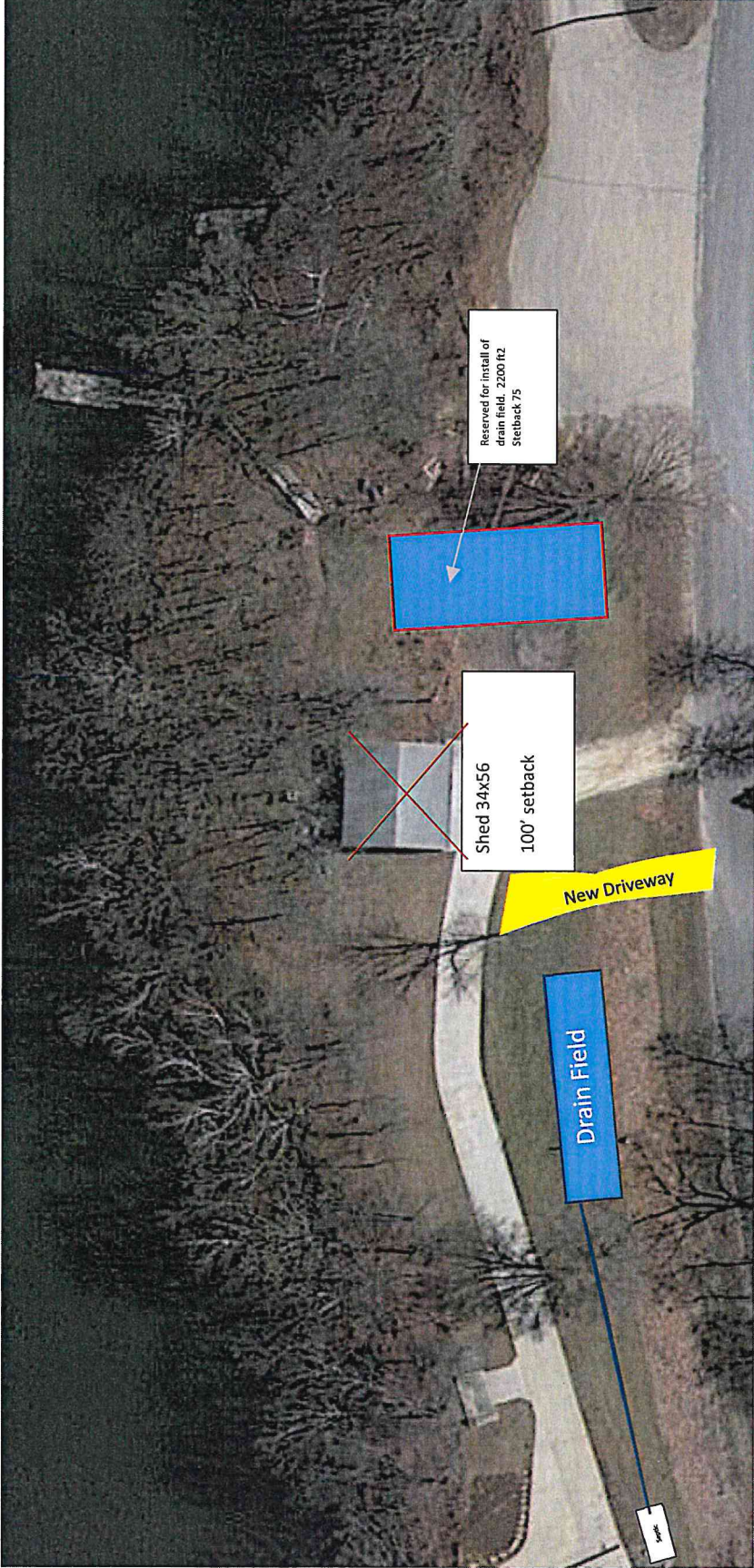
### Existing Site.

Approximate elevation of existing building above Lake level ~ 24Ft

Existing Accessory building 26'x28" = 728 ft<sup>3</sup>

Distance A from building to Lake Zumbro waters' edge ~ 65-70 Ft

Distance B from building to 125<sup>th</sup> St - centerline of existing road ~ 80 Ft



**New Site Plan.**

Approximate elevation of new building above Lake level ~ 24FT

New Building 56'X34' = 1904 ft<sup>3</sup>

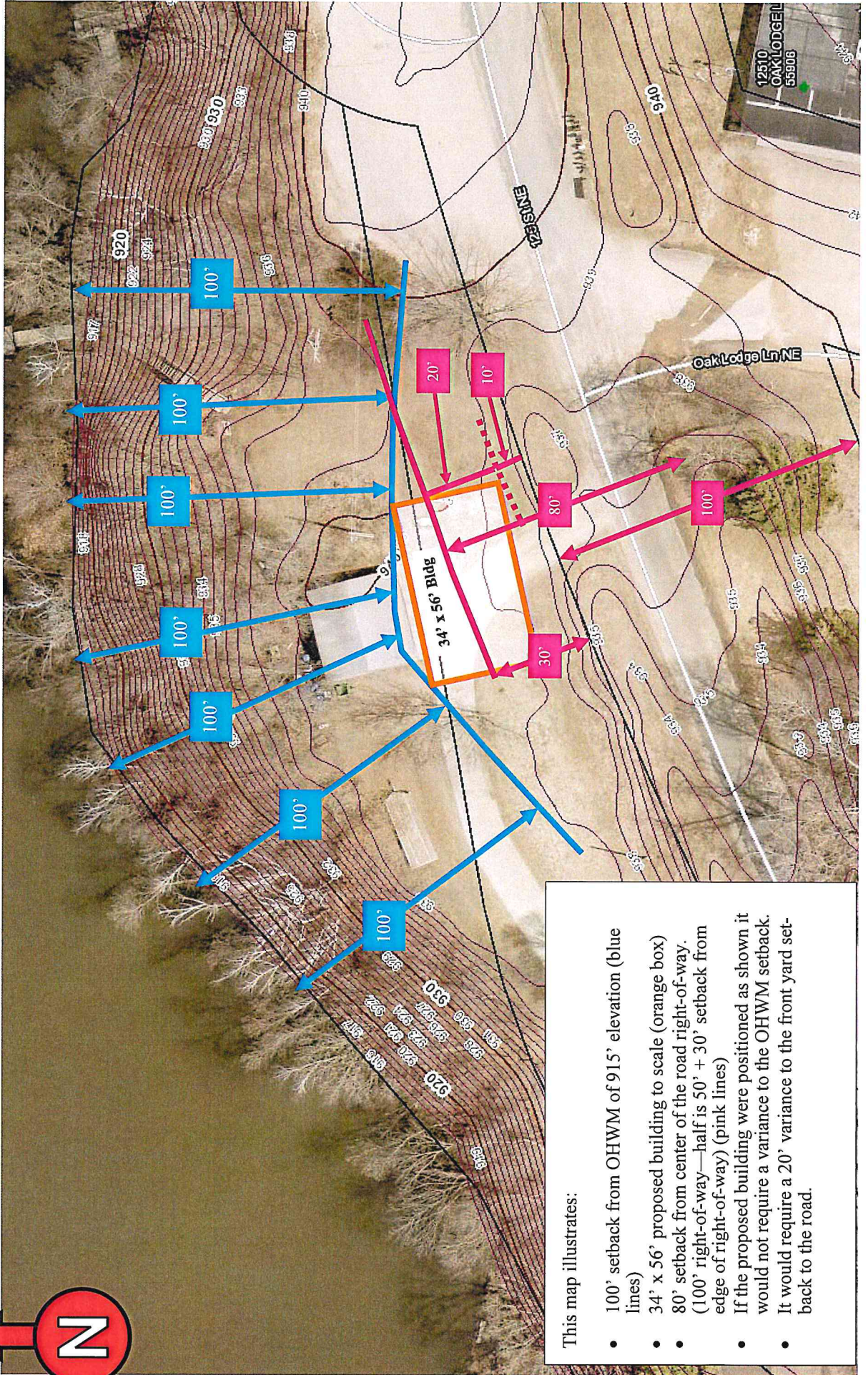
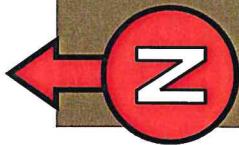
Building height = 17' 7"

Distance from building to Lake Zumbro waters' edge (OHWL Elev 915') = > 100' set back

Distance from building to 125<sup>th</sup> St - edge of existing physical road = 31' on East side, 36' on West side. My estimation is 8' to 10' from R/W

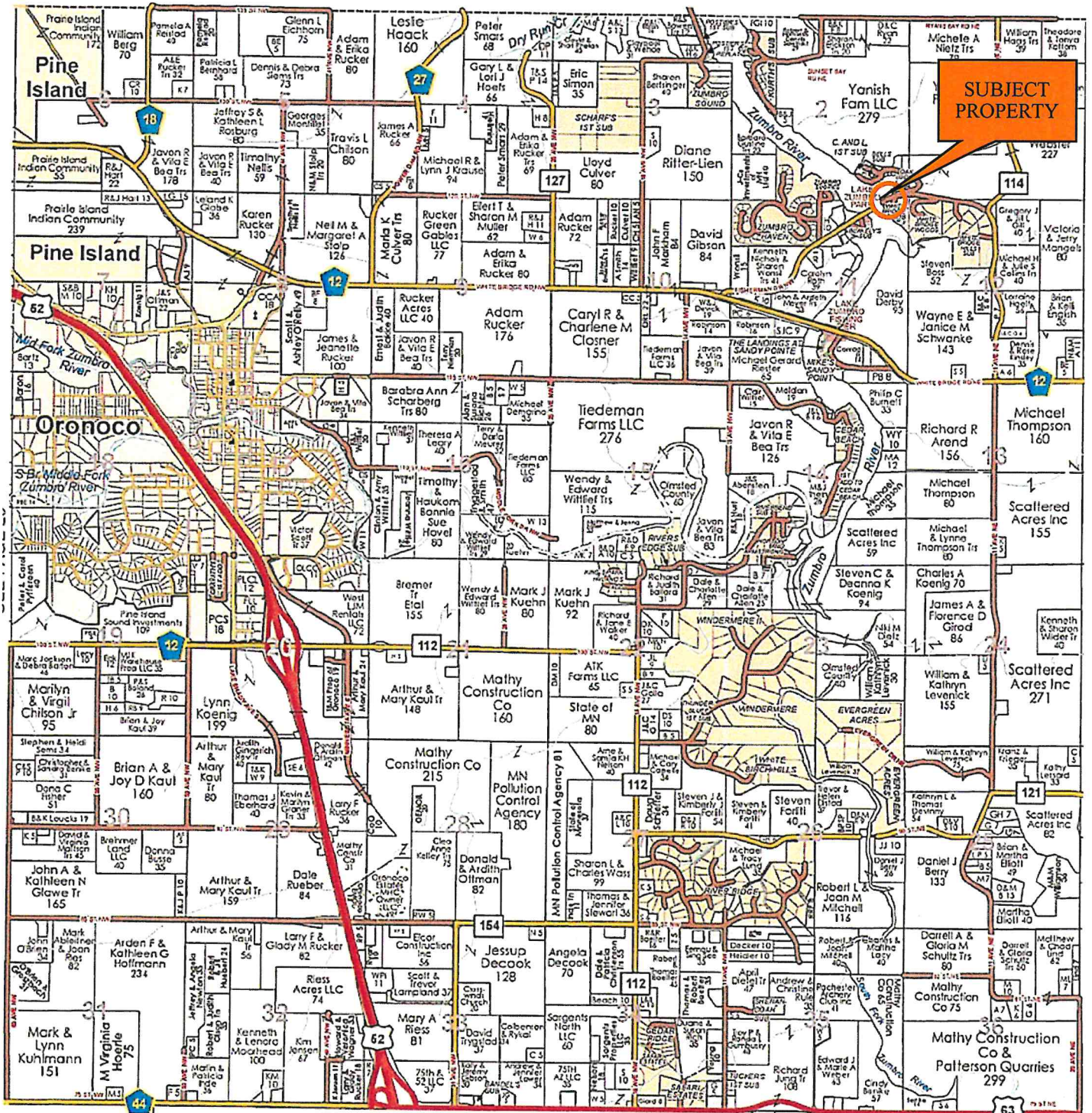
TCPA  
 4111 11th Avenue SW  
 Rochester, MN 55902  
 www.tcpamn.org  
 507-529-0774

# AERIAL MAP



- This map illustrates:
- 100' setback from OHWM of 915' elevation (blue lines)
  - 34' x 56' proposed building to scale (orange box)
  - 80' setback from center of the road right-of-way. (100' right-of-way—half is 50' + 30' setback from edge of right-of-way) (pink lines)
  - If the proposed building were positioned as shown it would not require a variance to the OHWM setback.
  - It would require a 20' variance to the front yard setback to the road.

# PLAT MAP



**LEGAL DESCRIPTION:**

Parcel #: 840244040380

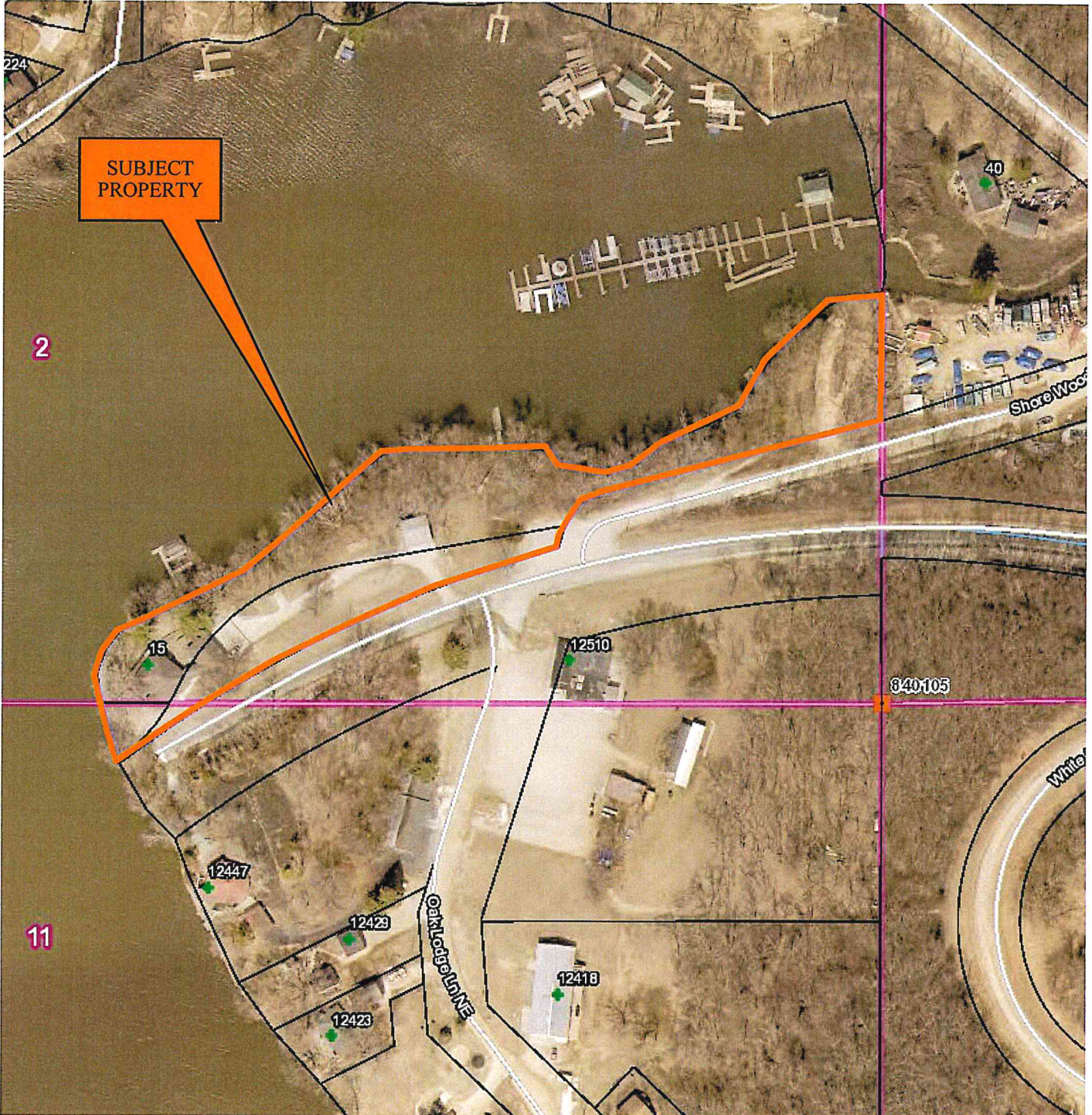
SECT-02 TWP-108 RANGE-014 OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62 AND 70 EX TH PT OF LOT 62 LYING S OF S LINE SEC 2 108-14

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NO PLG. 14

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# AERIAL PHOTO MAP



**LEGAL DESCRIPTION:**

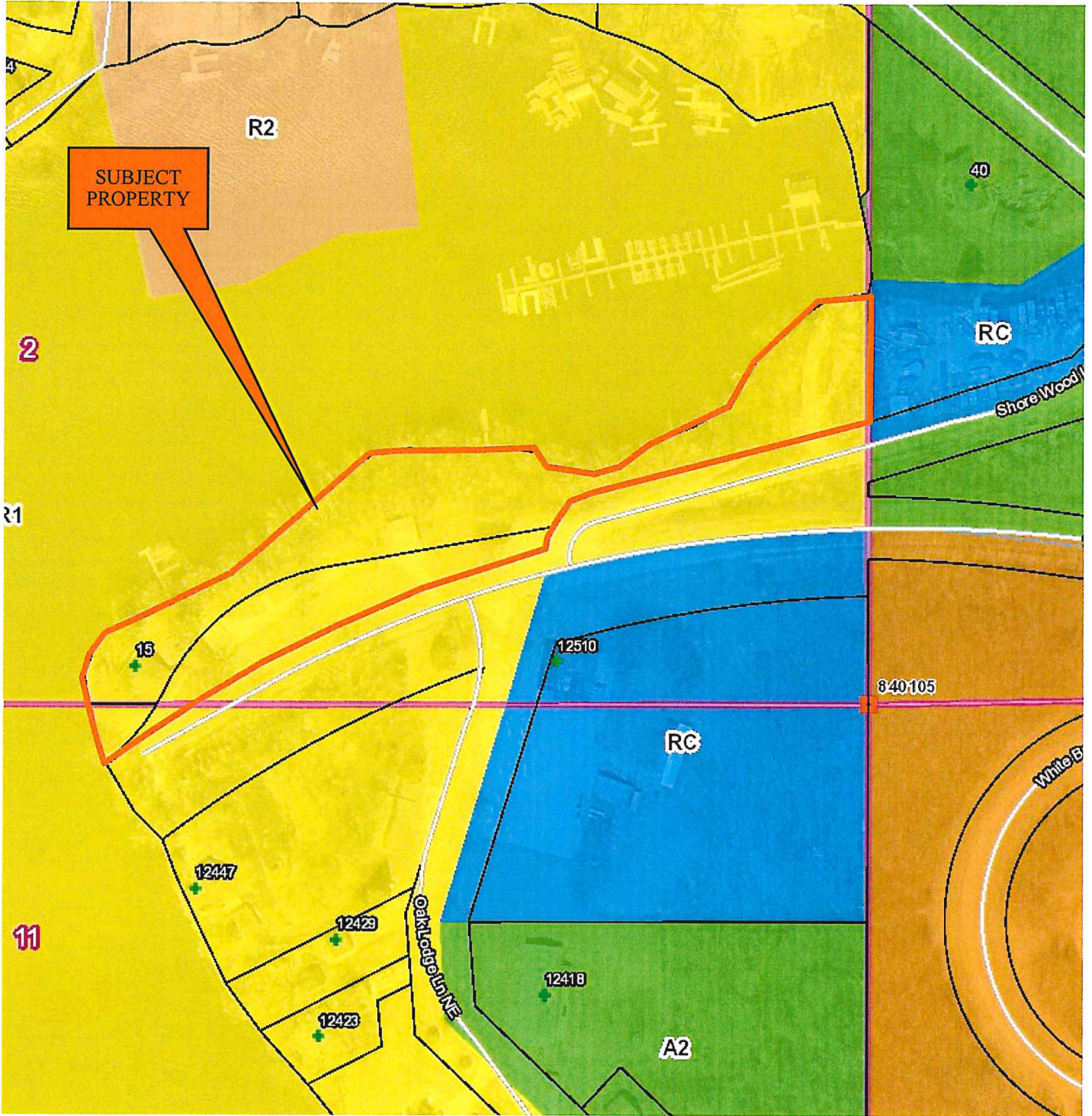
Parcel #: 840244040380

SECT-02 TWP-108 RANGE-014 OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62 AND 70 EX TH PT OF LOT 62 LYING S OF S LINE SEC 2 108-14

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# ZONING MAP



**LEGAL DESCRIPTION:**

Parcel #: 840244040380

SECT-02 TWP-108 RANGE-014 OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62 AND 70 EX TH PT OF LOT 62 LYING S OF S LINE SEC 2 108-14

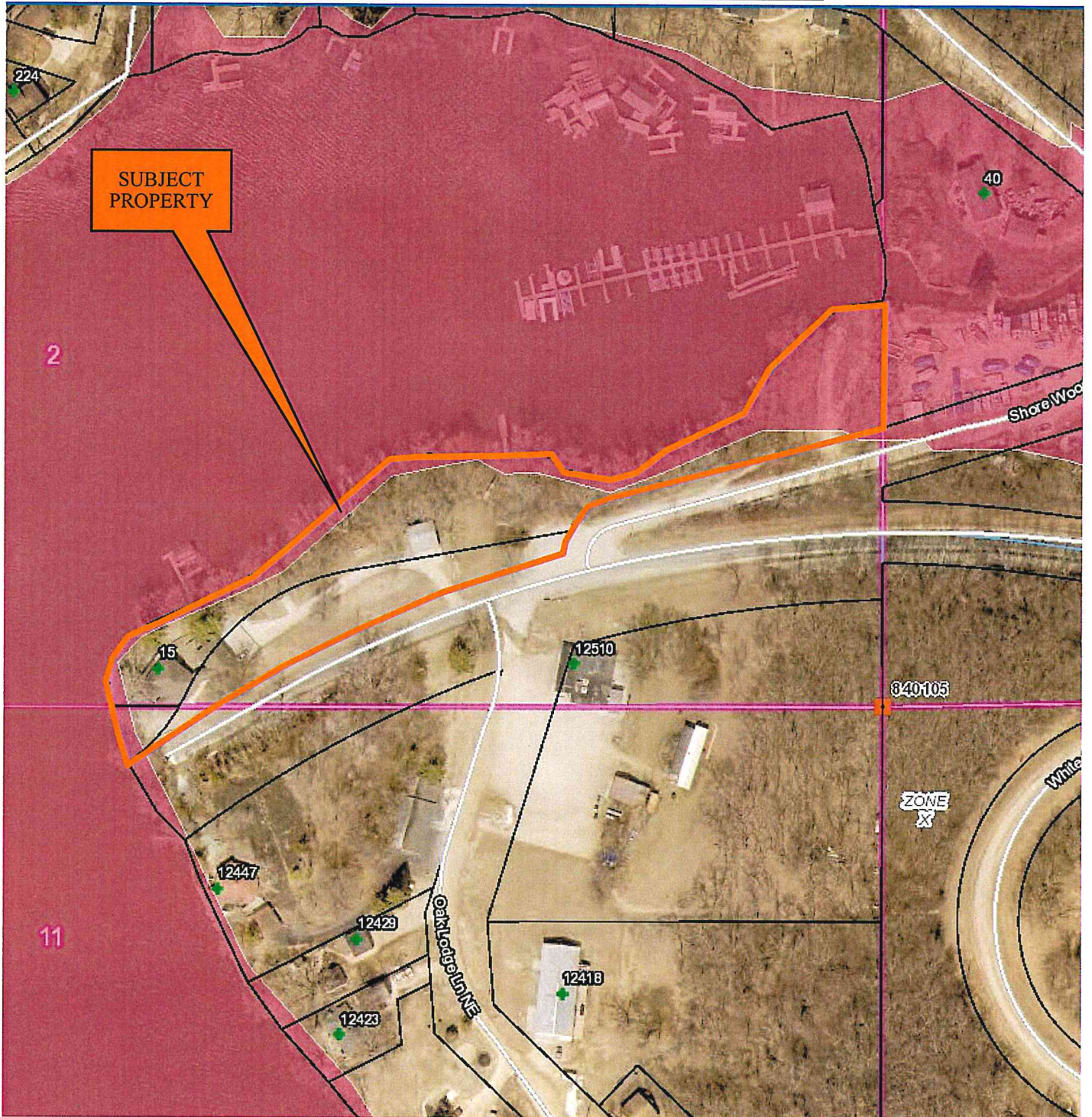
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# FLOOD MAP



**LEGAL DESCRIPTION:**

Parcel #: 840244040380

SECT-02 TWP-108 RANGE-014 OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62 AND 70 EX TH PT OF LOT 62 LYING S OF S LINE SEC 2 108-14

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4111 11th Avenue SW  
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507-529-0774

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OFFICE OF COUNTY RECORDER  
Olmsted County, Minnesota

I hereby certify that this document was filed in this office  
on 1/20/2000 at 2:30:00 PM and was duly  
recorded as document number A-833796  
DANIEL J. HALL - County Recorder, by \_\_\_\_\_ Deputy.

Well Certificate:  Received  Not Required  
Abstr. - yes  no   
Fees: \_\_\_\_\_ Total: \$19.50

Received from/return to:  
PLANNING

ZONING BOARD OF ADJUSTMENT  
County of Olmsted, Minnesota

VARIANCE RESOLUTION

WHEREAS, an application has been filed on behalf of Drew DeWitz, owner(s) of the premises  
(described as: OAK LODGE LOTS 46 TO 58 INCL AND LOTS 62 AND 70 EX TH PT OF LOT 62 LYING S  
OF S LINE SEC 2 108-14

and

WHEREAS, the applicant(s) are asking the Zoning Board of Adjustment of the County of Olmsted to  
grant a variance to the provisions of the Olmsted County Zoning Ordinance to allow for construction of a single  
family home that does not meet the minimum front, side and rear yard setback requirements for properties in  
the R-1 (Low Density Residential) Zoning District.

and

WHEREAS, the matter of such variance has been reviewed by the Zoning Administrator and he has  
submitted his report to the Zoning Board of Adjustment concerning the requested variance,

and

WHEREAS, a public hearing on the proposed variance was duly noticed and held by the Zoning Board  
of Adjustment in the Rochester-Olmsted Department of Planning Conference Room A & B, located at 2122  
Campus Drive SE, at 7:30 p.m. on December 22, 1999, at which hearing all interested persons were given the  
opportunity to be heard.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of Olmsted County as follows:

FINDINGS OF FACT AND CONDITIONS:

Located in an R-1 (Low Density Residential) Zoning District.

Mr. Suhler made the motion to approve Variance Request #99-23 by Drew and Dana DeWitz,  
with the following findings. Mr. Flores seconded the motion. The motion carried 5-0.

FINDINGS:

EXCEPTIONAL CIRCUMSTANCES: There are exceptional and extraordinary circumstances  
that would apply to this parcel of property that would not apply generally to other property in

*Planning*

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the R-1 zoning district or vicinity. The deteriorated condition of the existing structure does not allow for the property to be rehabilitated.

**PRESERVATION OF PROPERTY RIGHTS:** The granting of this variance request would be necessary to preserve the applicant's property rights. The applicant is proposing to replace the existing structure with a house of approximately the same size and building a detached garage on the east side of the proposed house.

**ABSENCE OF DETRIMENT:** The granting of this variance request would not be detrimental to the surrounding properties.

**GENERAL NATURE:** This variance request would not appear to be general or recurrent in nature to require an amendment to the zoning ordinance.

**MINIMUM VARIANCE:** The minimum variance that would be necessary to alleviate the alleged hardship would be a variance to the minimum front yard depth on the south side and a variance to the minimum setback from the Ordinary High Water Level on the west and north sides.

**SHORELAND DISTRICT REGULATIONS:** No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State Law: A compliance inspection of the septic system will need to be completed to determine if it meets State law.

**In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the established setbacks:** There is no development on either side of the proposed development. The applicant is proposing to replace the existing structure with a new single family dwelling of similar size and building a detached garage.

**In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property:** Does not apply in this request.

**Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks may be reduced by one-third (1/3):** Does not apply to this project.

**For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system:** The applicant has spoken to the Olmsted County Sanitarian Department concerning the proposed project and has been made aware of the requirements that need to need to be meet.

**CONCLUSION:**

The provisions of the Olmsted County Zoning Ordinance are hereby varied as to the aforesaid premises to the extent necessary to allow for construction of a single family home that does not meet the minimum front, side and rear yard setback requirements for properties in the R-1 (Low Density Residential) Zoning District, according to the plans therefore dated "Received October 22, 1999, Rochester-Olmsted Department of Planning, Olmsted County".

Passed and adopted by the Zoning Board of Adjustment of Olmsted County, Minnesota, this 22<sup>nd</sup> day of December, 1999.

*BLINK*  
\_\_\_\_\_  
Chairperson, Zoning Board of Adjustment

*[Signature]*  
\_\_\_\_\_  
Affiant's signature

Attest: *[Signature]*  
\_\_\_\_\_  
Zoning Administrator

Subscribed and sworn to before me this 13 day of January, 2000.

*[Signature]*  
\_\_\_\_\_  
Notary Public



**DISTRIBUTION:**  
County Recorder  
Zoning Administrator  
Applicant

Decision Zoning Board of Adjustment-Variance Resolution

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