

Houston County Board of Adjustment
January 24, 2019

Approved on May 23, 2019 by Ken Anderson and Dana Kjome

The Houston County Board of Adjustment met at 6:00 p.m. on Thursday, January 24, 2019. A summary of the meeting follows.

The meeting was called to order by Chairman Larry Hafner. Roll call was taken. Members present were Ken Anderson, Larry Hafner, Dana Kjome, Bryan Van Gorp and Ken Visger. Aaron Lacher, Environmental Services Director, was present for zoning.

The agenda was reviewed. Dana Kjome made the motion to accept the agenda. Ken Visger seconded. Motion carried.

Ken Anderson made a motion to approve the minutes of November 7, 2018. Ken Visger seconded. Motion carried.

Election of Chairperson for 2019 took place. Dana Kjome nominated Larry Hafner for Chairperson, Ken Anderson seconded. There were no other nominations. Motion carried unanimously.

Election for Vice Chairperson for 2019 took place. Bryan Van Gorp nominated Dana Kjome for Vice-Chairperson, Ken Visger seconded. There were no other nominations. Motion carried unanimously.

Notice of Public Hearing No. 464 was read for **Jacob and Erin Lampert**, 12397 Knollwood Road, Caledonia, MN 55921.

Ken Anderson made a motion to close the Board of Adjustment meeting and open the public hearing. Bryan Van Gorp seconded. Motion carried.

Jacob and Erin Lampert are seeking a variance of 24 feet to meet the required 65 foot setback from the centerline of a township road to build an addition on an existing house in Section 24 of Caledonia Township.

Aaron Lacher, Environmental Service Director, commented on the application:

- The Applicants are requesting a variance of 24' to meet the 65' setback required from a township road to accommodate a proposed addition.
- The property is located in the Green Acres Subdivision, and was created by a platting process in 1972. Tax records indicate a 1248 square foot, three bedroom house was constructed in 1973. The estimated setback of the existing house is 69'; this appears to be consistent with the setbacks prevalent throughout the subdivision.
- The variance is requested to accommodate an addition to include a garage and living area, with the existing garage being converted to a master bedroom. Staff estimate the proposed addition will be setback 41' from the centerline of Knollwood Road, requiring a 24' variance.

- The Green Acres subdivision is serviced by private sewers. The addition of a bedroom may require the owners to upgrade their septic system, pending an inspection of the existing system. The county does not have records for a current system, however the applicant indicates a system location. The lot is substandard in size, which may present challenges in locating a suitable area for a new system, should one be required, however the proposed addition location does not detract from potential suitable areas as it is atop the existing driveway.
- When the parcel was created by the 1973 plat, the minimum area requirement for residential lots with individual sewers was 22,000 s.f.; the current ordinance requires a one acre minimum area. An exception for lots created prior to the adoption of the modern rules exists that permits building on lots with areas of 22,000 s.f. or more (HCZO 15.11). The Applicants' lot is 27,442 s.f., therefore, though the site does not conform the modern standards, this specific exemption provides a means to permit the addition.
- The parcel is 0.63 acre lot located on a corner in the Green Acres subdivision. Slope measured across the parcel perpendicular to the contours using LiDAR data indicates a 6% slope. There are no water features mapped on the parcel; the nearest mapped water feature is an intermittent stream 450' to the east.
- Caledonia Township and the ten closest property owners were notified. No comments were received.

Chairman Hafner asked the Lamperts if they had anything to add. Jacob Lampert said they need a little more space with their family of four. They really like the neighborhood they are in, so would like to build an addition on their home.

Ken Anderson asked what the setback would be if this parcel were in the City of Caledonia. It was determined the setback would be 30 feet.

There was general discussion on Figure 6 in the staff report and it was determined that the addition wouldn't affect driving sightlines and does not appear to create a driving hazard.

Edward Voight of Caledonia Township was present and stated that the township is in favor of the application.

Chairman Hafner asked if anyone wanted to speak. There were no other comments.

Ken Visger made a motion to close the public hearing and open the Board of Adjustment meeting. Dana Kjome seconded. Motion carried.

Dana Kjome and Ken Visger stated they both visited the site and think the addition is a favorable idea.

Chairman Hafner asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

12.5 CRITERIA FOR GRANTING VARIANCES

The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there

are practical difficulties in complying with the official control. "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; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. 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. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(SA = Staff Analysis)

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: As part of the residential development policies included in the comprehensive plan, the county is to encourage the rehabilitation of existing older homes (0100.0506 subd. 2 policy 10).

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with Staff Analysis (SA).
Larry Hafner	X		Is in harmony/supports decision to stay in home.
Dana Kjome	X		
Bryan Van Gorp	X		
Ken Visger	X		

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The lot cannot accommodate an addition without a variance of some sort. Generally speaking, modern homes are tend to be larger than those built in the 1970s, thus a request to add onto a smaller home from that area is reasonable.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA, only thing they can do.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		
Ken Visger	X		

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The lot is typical among those found in the Green Acre subdivision, however the house is smaller than a typical house in this neighborhood, and represents a circumstance unique to the property. Looking at the houses located on the island on which the Applicant's home is located, square footage ranges from 1248 s.f. to 2783 s.f., with the applicants' house being the smallest. The average s.f. of these neighboring homes is 2136 s.f.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		
Dana Kjome	X		Smaller house/corner lot, variance makes sense.
Bryan Van Gorp	X		
Ken Visger	X		Improvement to existing home/neighborhood.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: An addition of the size proposed would require a variance in configuration on the parcel except to the east of the existing house. Placing an addition to the east of the house is not reasonable for multiple reasons: first, the existing septic field is located in this area; second, there may be areas of undisturbed soils east of the house, and preserving them for a future replacement septic system is prudent; third, the addition being proposed is a garage, and the existing driveway does not lead to the east of the house. Additionally, there may be layout consideration given the existing floor plan (e.g. it would not be reasonable to separate a bedroom addition from the rest of the living space by a garage).

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		
Bryan Van Gorp	X		Agrees with SA.
Ken Visger	X		

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: Houses in Green Acres subdivisions substantially, if not completely, comply with the standard setback requirements, however, it is unlikely that the granting of a single variance would have the effect of an essential character change. The house would remain a single family dwelling and be similar in size to neighboring houses. Because the existing house is located on a corner lot, consideration of the effect on driving sightlines is appropriate. Caledonia Township is the road authority for Knollwood Road, has been contacted regarding the request, and did not submit any comment of concern on this topic. The effect of the proposed addition does not appear to create a driving hazard.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with SA.
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		
Ken Visger	X		

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: A reduction in road setback is an area variance. Single family homes are a permitted use in the Residential District. There are no mapped flood hazard areas on the property.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with SA.
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		
Ken Visger	X		

RECOMMENDATION

The Board must consider the information presented above and the criteria findings pursuant to Section 0110.1205 of the Houston County Zoning Ordinance. Should the Board elect to grant the variance request, staff does not recommend any additional conditions.

Chairman Hafner asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Ken Anderson seconded. Motion carried.

Chairman Hafner asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made the motion to grant a variance of 24 feet from the township road. Dana Kjome seconded. Motion carried.

Notice of Public Hearing No. 465 was read for **Peter and Pamela Orr**, 9755 County 4, Houston, MN 55943.

Ken Visger made a motion to close the Board of Adjustment meeting and open the public hearing. Bryan Van Gorp seconded. Motion carried.

Peter and Pamela Orr are requesting a variance of 45 feet to meet the required 50 foot setback from the north property line for an existing shed in Section 22 of Yucatan Township.

Aaron Lacher, Environmental Service Director, commented on the application:

- A variance of 45 feet to meet the required 50 foot setback from the north property for an existing shed.
- In 1981, 4.4 acres were split from a parent parcel creating PID#170258004. The need for this variance request was created by this split because the newly created property line was 5' from an existing 20' x 40' shed (doc #135771); a 50' setback was required at the time and continues to be the requirement. As is often the case with splits separating dwellings from outbuildings within an farmstead, the proximity of the existing buildings did not provide for the setback distances required for the newly created parcels; additionally, compliance with setback requirements does not appear to have been an objective of the 1981 split.
- The current house on the property was constructed in 2007, and required the granting of a CUP (house on less than 40 acres) and a variance of 600' from feedlot that is still operated on the

parent parcel. In 2012 a permit was granted for a deck, which was converted into a 3-season room in 2015 under a subsequent permit. In the spring of 2018, an application was submitted for a 36' x 54' pole shed and denied by the zoning office based on the noncompliance created by the 1981 split, as well as the proposed location of the proposed shed being within the property line setback. At that time there were questions as to the precise location of the property line, and the owner had a survey completed.

- The north line was redefined via quitclaim deeds ahead of the 2018 survey, placing the line 5' north of the existing outbuilding, and re-creating the need for a variance or alternate cure. The new line could have been placed more equidistant between the existing buildings, but no division scheme providing for continued ownership of the respective buildings could have achieved the required setbacks. In this instance, a more equidistant placement of the line would serve no practical purpose.
- The parcel is bordered to the southeast by the Root River South Fork. The eastern third of the parcel is located in the flood hazard area, included the existing shed for which the variance is sought. The entire parcel is located within ¼ mile of two feedlots, both operated by the applicant's brother on the parent parcel. Immediate family members are exempt from the feedlot setback, however the applicant was granted a 600' variance from feedlot setbacks for his house in 2006.
- Yucatan Township and the ten nearest property owners were notified. No comments were received.

Chairman Hafner asked Peter Orr if he had anything to add. Peter said he recently had the land resurveyed to put the property line where they thought it always was.

There was general discussion on the new survey and the corrected north property line.

Ken Anderson clarified that Peter was building a new building. Peter said he was. The new building will not need a variance. The existing building needs a variance.

Chairman Hafner asked if anyone wanted to speak.

John Dewey was present for Yucatan Township and stated the township was in support of Peter's application.

Bryan Van Gorp made a motion to close the public hearing and open the Board of Adjustment meeting. Ken Visger seconded. Motion carried.

Ken Visger and Bryan Van Gorp stated they both visited the site. Neither see a problem with the request. Ken Visger said there is no harm with the request, but wishes there was a way to correct the need for these after-the-fact variances. Bryan Van Gorp has a resolution he would like to present at the end of the meeting.

Chairman Hafner asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

12.5 CRITERIA FOR GRANTING VARIANCES

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are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "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; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. 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. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(SA = Staff Analysis)

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: Formal review of parcel splits for zoning compliance has not been part of the official controls. The Comprehensive Plan calls for encouraging rehabilitation of existing homes. When a home is beyond rehabilitation, a logical extension of this policy is the reuse of existing home sites, as this has no net reduction in the productive ag land base. In large part, the 1981 split allowed for the continued use of the agricultural infrastructure and the construction of a new house without reducing ag land in cultivation.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with Staff Analysis (SA).
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		Agrees with SA.
Ken Visger	X		

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The proximity of the existing buildings makes the 1981 subdivision unattainable within the parameters of the setback requirements as a 100' separation does not exist. The relocation or demolition of buildings has economic considerations. Many factors may have represented practical difficulties which reasonably contributed to the placement of property lines in 1981: If a goal was to provide the parcel with outbuildings, slopes present on the parcel and parent parcel may have affecting decisions. The prevalence of floodplain and the knowledge of areas susceptible to flooding limit areas acceptable for future building.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		
Ken Visger	X		

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The variance is requested due to the proximity of existing buildings that were constructed prior to county zoning rules. The BOA should consider whether the original placement of these buildings and subsequent split was done to facilitate a future variance, which would require the variance to be denied, or if the split was done for good cause with the property features in mind (existing farmstead, natural features, etc.), which would allow for granting the variance.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Only alternative, split did not change usage.
Larry Hafner	X		Done years ago, wasn't done to hurt.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		
Ken Visger	X		

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: Without removing existing structures or deviating significantly from the existing line location, the required setbacks cannot be achieved.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		
Dana Kjome	X		
Bryan Van Gorp	X		Agrees with SA.
Ken Visger	X		

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: The required setback has not been in place since 1981, with little or negative effect. The applicant's brother owns the neighboring property, and he indicates both parties freely travel on the respective parcels.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		
Bryan Van Gorp		X	Irrelevant that same family owns both sides.
Ken Visger	X		

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: The request is for an area variance. The shed for which the variance is sought is located in the flood hazard area, and is considered a non-compliant structure for which there are

specific and strict rules regarding use, improvement, and replacement. The granting of the variance will not change this status.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with SA.
Larry Hafner	X		
Dana Kjome	X		
Bryan Van Gorp	X		
Ken Visger	X		

RECOMMENDATION

The Board must consider the information presented above and the criteria findings pursuant to Section 0110.1205 of the Houston County Zoning Ordinance. Should the Board elect to grant the variance request, staff does not recommend any additional conditions.

Chairman Hafner asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Dana Kjome seconded. Motion carried with overall approval.

Chairman Hafner asked for a motion on the variance request if there were no additional comments or questions.

Ken Visger made the motion to grant a variance of 45 feet from the north property line for an existing shed. Ken Anderson seconded. Motion carried.

OTHER BUSINESS:

Bryan Van Gorp stated that something needs to be done with parcel splits so they are done correctly and according to the county ordinance. He read the following statement: ***"The Board of Adjustment encourages the County Board to take action to limit future land parcel splits that will create situations that violate the ordinance and limit options for constructive outcomes. A significant number of the cases coming before the Board of Adjustment deal with problems created by splits that should not have occurred or could have been dealt with in a more constructive way proactively. Perhaps the Board of Adjustment could have a role in evaluating the appropriateness of these splits rather than attempting to deal with the problems they create after the fact when options are limited. We leave the specifics of how best to create a workable policy to the County Board, Zoning Administrator and legal advisors. We only ask that you deal with an ongoing problem proactively to reduce the future work load, reduce violations, reduce controversy and create better outcomes for the citizens of Houston County."***

Ken Visger made a motion to submit the above statement to the County Board. Ken Anderson. Motion carried.

Ken Visger made a motion to adjourn. Dana Kjome seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on January 25, 2019.

Houston County Board of Adjustment
May 23, 2019

Approved on June 27, 2019 by Ken Visger and Ken Anderson

The Houston County Board of Adjustment met at 6:30 p.m. on Thursday, May 23, 2019. A summary of the meeting follows.

The meeting was called to order by Chairman Larry Hafner. Roll call was taken. Members present were Ken Anderson, Larry Hafner, Dana Kjome, Bryan Van Gorp and Ken Visger. Aaron Lacher, Environmental Services Director, was present for zoning.

The agenda was reviewed. Ken Visger made the motion to accept the agenda. Bryan Van Gorp seconded. Motion carried.

Notice of Public Hearing No. 466 was read for **Kyle Meyer**, 12735 Tower Drive, Caledonia, MN 55921.

Kyle Meyer is seeking two variances. The first request is for a variance of 25 feet to meet the required 65 foot setback from the centerline of a township road for a proposed 25' x 42' shed. The second request is for a 10' variance from the west property line to meet the required 50 foot setback for an existing shed in Section 36 of Sheldon Township.

Aaron Lacher, Environmental Service Director, commented on the application:

- The subject parcel is a 1.37 acre parcel located on Tower Drive, a dead-end township road. The parcel was created by a parcel split in 1968 (Doc# 103738), when an existing farmstead was split from the adjacent farm land, and remained under the same ownership until 1995. In 1995, the property was sold, and a permit to install a mobile home was issued (#1789); the original farmhouse was demolished around this time. In 2000, a permit to build a house, garage, and deck was issued (#2356) to a new owner, and the mobile home was removed. Subsequent permits were issued for accessory buildings in 2005 and 2013, with the latter being a lean-to for which variance request #2 is brought. The existing house is considered to be a legal nonconforming use, thus no CUP is necessary for a dwelling on less than 40 acres.
- Per the applicant, a fence is located on the west property line. The parcel line on Beacon displays east of this fence.
- The proposed shed will accommodate vehicles and equipment used for the applicants contracting business, as well as provide residential storage. Contracting work is not performed at the site, nor do customers come to the applicant's home. While many contractors live and work in the county, a search of permits does not indicate that any have been granted permits for home businesses.
- The parcel is located at the midpoint of Tower Drive, a dead-end township road ½ mile long. Tower Drive is understood to have a 4 rod, 66' right of way (ROW). There is one house located beyond the applicant's property on Tower Drive; a commercial tower is also accessed via Tower Drive. The proposed shed is located just beyond the approximated ROW. The size of the parcel provides for limited space for buildings. The effect of property line and road setbacks limit the buildable area on the lot to approximately 0.4 acres.
- The septic drain field is located east of the house and the well is on the southern end of the property. Should the septic need to be replaced in the future, the most likely location for this

would in the NE portion of the parcel—the proposed shed location does not appear to be an ideal drain field located based on proximity to buildings and driveways. Slopes on the property are predominantly 2-18%. There are no water features or wetland mapped on or near the property, with the closest being a wetland 1/8 mile east.

- Sheldon Township and the ten closest property owners were notified. Sheldon Township contacted the County, and does not object to a reduced road setback.

Bryan Van Gorp asked what year the reduction in parcel size from 10 acres took place. Aaron Lacher said around 1990.

Chairman Hafner asked Kyle Meyer if he had anything to add. Kyle indicated he had met with some members of the BOA on his site and showed them around. The location is in the best possible spot to build due to the existing septic system and utilities. He also doesn't want to interrupt the area that is available for the kids to play. He would like to pull in by the existing shed and back in away from where the kids play. He measured other locations, but any location would require a variance request.

Bryan Van Gorp clarified that the right-of-way setback from the township road was 33 feet from the centerline. Aaron Lacher said was correct, however, the greater of the two setbacks is the 65 foot setback from the centerline of the township road, so you go with whichever setback is greater.

Bryan Van Gorp asked how long Kyle has had ownership of the parcel. Kyle said since November of 2018.

Dana Kjome asked if the owner of the tower was notified. Aaron Lacher indicated Midwest Wireless Communication was on the list of those notified.

Ken Anderson clarified that the road is a straight road and equipment turning around would have clear vision of any oncoming traffic. Kyle Meyer indicated that was correct.

Aaron Lacher indicated there is an existing shed very close to the west property line. The board may want to consider having that building come into compliance with setbacks. Kyle Meyer said the shed was portable, on skids and can be moved. There was discussion on Aaron working with Kyle to give him time to relocate it.

Bryan Van Gorp asked when the mistakes of previous owners would ever be addressed or are all old sins forgiven. There was brief discussion on the continuing problem with variance requests.

Chairman Hafner asked if anyone else wanted to speak. There were no other comments.

Chairman Hafner asked that the Findings be read being there were no further comments. The Findings were read and comments made as follows:

12.5 CRITERIA FOR GRANTING VARIANCES

The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "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; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. 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. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(SA = Staff Analysis)

Subdivision 1. Findings Required

1. The variance request is in harmony with the intent and purpose of official controls?

Staff Analysis: Comprehensive Plan Section 0100.0506 Subd. 2 (10) encourages the rehabilitation of existing older homes. The application of this policy to a homestead is appropriate insofar as it provides that new buildings be located on existing home sites rather than undisturbed areas. While no build date is known for the original house, it is suspected that a home has been located at this site for more than 100 years. The BOA must find that a goal of the official controls is the continued use of an existing site, that limiting accessory buildings at existing sites would have the effect of encouraging development at new sites with fewer spatial limitations, and that these goals outweigh the utility of requiring strict adherence to setback standards.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Allowing building on existing homesteads has effect of reducing demand on undeveloped sites.
Larry Hafner	X		Agrees with SA, goal to rehabilitate existing homes extends to homesteads.
Dana Kjome Bryan Van Gorp	X	X	Site is too small for what he wants to do. The number of allowed buildings needs to be limited on sites like this.
Ken Visger	X		Benefit of allowing variance in this case outweighs strict adherence to setback requirements.

2. There are practical difficulties in complying with the official controls, and the proposed use of the property is reasonable. Economic considerations alone do not constitute practical difficulties.

Staff Analysis: The primary practical difficulty is the limited space available due to the small parcel size. Other economic considerations can also be considered, including the locations of an outdoor boiler and utility lines.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA, placement is reasonable, he is positioning it away from family use of the yard.

Dana Kjome	X	
Bryan Van Gorp	X	Parcel size is the practical difficulty.
Ken Visger	X	

3. The variance request is due to special conditions or circumstances unique to the property and not created by the property owner.

Staff Analysis: The parcel size was established in 1968, and eight owners have held title to the parcel since that time. Existing buildings and driveways occupy much of the buildable space after setbacks are applied. The BOA must find that decisions made by previous owners regarding property line and structure placement do not carry over to the current owner such that he would be considered to have created the need for the variance.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		
Larry Hafner	X		Agrees with SA and additional observations.
Dana Kjome	X		Prior permits were not adhered to.
Bryan Van Gorp	X		
Ken Visger	X		Apparent from history of parcel he did not create the need himself.

4. The variance cannot be alleviated by a reasonable method other than a variance and the minimum variance which would alleviate the practical difficulty is sought.

Staff Analysis: Regarding request #2, only three remedies exists: obtain a variance, move the building, or move the property line. The BOA must find that the grant of a variance is the most reasonable among these. Further, the BOA must find that the proposed shed size is reasonable. Lastly, the applicant indicates that the proposed shed location serves to utilize the existing driveway and turnaround, accommodate the continued use of an outdoor boiler, and, to a degree, bifurcate the parcel such that a play area for children remains east of the primary driveway. The BOA must find that these objectives are reasonable and warrant a variance.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		A variance is most reasonable way to solve the issue.
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Location of septic does not allow building east of driveway.
Bryan Van Gorp		X	There are other locations available.
Ken Visger	X		

5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.

Staff Analysis: No impacts are anticipated. The road has minimal traffic. The Township did not object to the proposal. The number of accessory buildings is not dissimilar to other parcels in the ag district.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Building will be good for equipment storage and make it a neater looking parcel.
Larry Hafner	X		

Dana Kjome	X	
Bryan Van Gorp	X	
Ken Visger	X	Agrees with SA.

- The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: The request is for variances of area. The parcel is not located in or near a floodplain.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Not in a floodplain.
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		
Bryan Van Gorp	X		
Ken Visger	X		

RECOMMENDATION

The Board must consider the information presented above and the criteria findings pursuant to Section 0110.1205 of the Houston County Zoning Ordinance. Should the Board elect to grant the variance request, staff recommends the following conditions:

- Before a zoning permit shall be issued, the permittee shall present a plan to bring the existing 16' x 23' shed located in the NW corner of the parcel into compliance, and the plan shall be approved by the zoning office.

Bryan Van Gorp made a motion to close the public hearing and open the Board of Adjustment meeting. Dana Kjome seconded. Motion carried.

Chairman Hafner asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Ken Anderson seconded. Motion carried.

Chairman Hafner asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made the motion to grant a variance of 25 feet to meet the required 65 foot setback from the centerline of a township road for a proposed 25' x 42' shed. The second request is for a 10' variance from the west property line to meet the required 50 foot setback for an existing shed. Ken Visger seconded. Motion carried.

OTHER BUSINESS:

Ken Anderson made a motion to approve the minutes from January 24, 2019. Dana Kjome seconded. Motion carried.

Ken Visger made a motion to adjourn. Bryan Van Gorp seconded. Motion carried.

Submitted by Houston County Board of Adjustment Clerk on May 24, 2019.

may find that this is not an alteration to neighborhood character, and is unlikely to affect adjacent property values.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with SA.
Larry Hafner	X		Agrees with SA, the easement was at one time a public road.
Dana Kjome	X		Agrees with SA and Ken V's comments.
Bryan Van Gorp	X		Agrees with SA.
Ken Visger	X		Would be unreasonable to deny buildable lot.

6. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.

Staff Analysis: The request is for an area variance. The granting or denial of the request will have no effect on the application of applicable flood protection regulations.

	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
Ken Anderson	X		Agrees with SA.
Larry Hafner	X		Agrees with SA.
Dana Kjome	X		Agrees with SA.
Bryan Van Gorp	X		Agrees with SA.
Ken Visger	X		Agrees with SA.

RECOMMENDATION

The Board must consider the information presented above and the criteria findings pursuant to Section 0110.1205 of the Houston County Zoning Ordinance. Should the Board elect to grant the variance request, staff does not recommend any additional conditions.

Chairman Hafner asked for a motion on the findings if there were no additional comments or questions.

Ken Visger made a motion to accept the findings. Dana Kjome seconded. Motion carried.

Chairman Hafner asked for a motion on the variance request if there were no additional comments or questions.

Ken Anderson made the motion to grant a variance of driveway easement width. Ken Visger seconded. Motion carried. 33

OTHER BUSINESS:

Ken Visger made a motion to approve the minutes from May 23, 2019. Ken Anderson seconded. Motion carried.

Ken Visger made a motion to adjourn. Bryan Van Gorp seconded. Motion carried.

Submitted by Houston County Board of Adjustment on June 28, 2019