

STAFF REPORT

Application:	Variance request to allow for the construction of a 1440 sq ft detached accessory building, which when combined with a 240 sq ft garden shed already on the property will exceed the maximum 1500 sq ft allowance for parcels less than 60,000 sq ft in size in the Residential Shoreland district.
Applicant and Property Owner:	Derek Marohl
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicant has recently been permitted to construct a 1440 sq ft detached accessory building on their property, but it was on the condition that they remove an existing 240 sq ft garden shed or move it to an adjoining property that contains their dwelling. The garden shed currently straddles the property line between the two properties and when combined with the 1440 sq ft shed puts the property over its 1500 sq ft maximum allowable coverage by detached accessory buildings. Moving the shed to the adjoining property with their home on it may cause that property to exceed the 25% maximum impervious coverage limit. The applicant is requesting to keep the garden shed in its current location and have the two properties treated as one.
- **Location:**
 - Property address: 1413 E Lake Geneva Rd NE,
 - Sec/Twp/Range: 10-128-37
 - Parcel number(s): 03-1207-680
- **Zoning:** UR - Urban Residential / RS - Residential Shoreland - Geneva Lake, (General Development lake)
- **Lot size:** Approx. 25,896 sq ft (0.59 acres) according to original plat of the applicant's property (this is for Lot 3, Block Two of Viking Moor only – the applicant also owns the adjacent Lot 4, Block Two)
 - Existing Impervious Coverage: About 240.0 sq ft (0.93%)
 - Proposed Impervious Coverage: About 3,276.0 sq ft (12.65%)
- **Septic System Status:** The property is served by ALASD sewer and private water.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain.
 - Bluff/Steep Slopes: The lot does not contain a bluff. The lot does not contain steep slopes that would impact the proposed improvement(s) to the property.
 - Wetlands: There are wetlands on the property near the area of the new 1440 sq ft shed and the existing 240 sq ft shed.
 - Current Shoreline Conditions: N/A

Board of Adjustment Action: The Board of Adjustment may approve the variance request, deny the request(s), or table the request(s) if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Comments:

1. The 240 sq ft garden shed was placed on the property sometime between 2013 and 2019 according to aerial photos on the Douglas County GIS system and other aerial photos (likely between 2016 and 2019). There is no record of a permit having been issued for the shed, which would have been required. The shed currently sits mostly on the northern parcel of the two owned by the applicant with some of it straddling the common property line. The normal required side yard setback would have been 10 feet. If the shed is to remain, it would also need a variance from the required 10 ft side yard setback requirement - unless the applicant decides to combine their two parcels into one.
2. If the garden shed were placed on the adjoining property with the home on it, it would need to meet all required setbacks and it would appear to increase impervious coverage on that lot from about 21.8% to about 22.7%. That assumes the gravel drive surface between the paved driveway and the property line to the NW is eliminated. If that area is not eliminated, it would appear to increase impervious coverage to about 25.3%. A survey may be needed to verify all impervious surfaces and exact lot size. Resulting detached accessory building coverage on that lot would then be at about 860 sq ft - well under the max. 1500 sq ft allowed.

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Variance only if it is found that the standards for approval have been met - particularly that a finding is developed which indicates why the variance is necessary for reasons outside of the applicant's control.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. That the smaller garden shed be relocated on the property so that it meets the required ten (10) ft side yard setback.

OR

That the smaller garden shed be relocated so that it is entirely located on one property or the other and does not cause the need for impervious coverage or other variances.

2. That if the smaller garden shed is moved to the adjoining property (PID 03-1207-685) it must meet all applicable minimum setback requirements and impervious coverage requirements.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

1) Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control.

The spirit and intent of the relevant ordinances are as follows:

The spirit and intent of the ordinance's limitation on accessory building footprint is to ensure some reasonable uniformity in detached building sizes among similarly sized lots and preserve the character of an area.

Findings Supporting Approval

The proposed improvements would be in harmony with the general purpose and intent of the requirements because the intent of the regulation limiting accessory buildings to 1500 sq ft is to prevent properties from appearing overbuilt with large sheds. The smaller garden shed is well screened from neighboring properties and will be even more screened from view from public roads when the new 1440 sq ft shed is constructed.

Findings Supporting Denial

The proposed improvements would not be in harmony with the general purpose and intent of the requirements because the intent of the ordinance restriction on combined accessory building size is create consistency from one property to the next and allowing the excess building coverage would create inconsistency.

2) Variances shall only be permitted when they are consistent with the comprehensive plan.

Findings Supporting Approval

The granting of the requested variance(s) is not inconsistent with the Comprehensive Plan because it would represent an anticipated use within the relevant zoning district(s).

Findings Supporting Denial

The granting of the requested variance(s) would be inconsistent with the Comprehensive Plan because it would result in inconsistent treatment of similarly situated properties.

3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

Findings Supporting Approval

The proposed use of the property is reasonable because the exceedance of the 1500 sq ft limit is relatively small (180 sq ft or 12% of the total allowable square footage) and the shed is not on a permanent foundation and likely to be removed from the property at some point.

Findings Supporting Denial

The proposed use of the property is not reasonable because it would allow a shed that was not permitted in the first place to be on the property in a location that does not meet the side yard setback requirement and moving the shed to the adjacent property with the dwelling (subject to overall 25% impervious coverage limitations) is a reasonable possibility.

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

Findings Supporting Approval

None

Findings Supporting Denial

The plight of the landowner is due to factors that they created themselves because they have the ability to move the garden shed to their adjacent property in a way that would comply with ordinances or remove the garden shed from the property completely. Further, it is the action of building a new 1440 sq ft shed that creates the primary need for the variance when they could have build a smaller new shed or removed the garden shed from the property.

5) The variance, if granted, will not alter the essential character of the locality.

Findings Supporting Approval

The essential character of the area would not be altered because both the current area and the proposed use are residential in character.

Findings Supporting Denial

The essential character of the area would be altered because the granting the variance would allow for more detached accessory building on the property than is present or allowed on other nearby properties.

6) Economic considerations alone do not constitute practical difficulties.

Findings Supporting Approval

Economic considerations are not the only reason the applicant cannot meet the requirements of the ordinance because there are non-economic factors involved, as mentioned above.

Findings Supporting Denial

Economic considerations are the only reason the applicant cannot meet the requirements of the ordinance is a desire to maximize previous investments in structures and maximize the value of the property.

7) 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.

Findings Supporting Approval

The proposed use is identified as a permitted use in the zoning district where the applicant's property is located.

Findings Supporting Denial

None

Appendix A

Applicable Statutes and Ordinances

Minnesota Statutes

462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance 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 zoning ordinance. "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 the zoning ordinance; 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 ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be 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.

394.36 (2016) NONCONFORMITIES

Subd. 5. Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Alexandria Township/Douglas County Regulations

I.VARIANCES.

1. Criteria for Granting of Variances.

a. The Board of Adjustment shall have the exclusive power to order the granting of variances from the terms of this Ordinance, including restrictions placed on nonconformities. Variances shall only be permitted when the following criteria have been met, as determined by the Board of Adjustment:

i. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan.

- ii. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.
- iii. "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 the zoning ordinance; 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.
- iv. Economic considerations alone do not constitute practical difficulties.
- v. A variance may not permit any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.
- vi. The Township may impose conditions in the granting of variances provided it is directly related to and bears a rough proportionality to the impact created by the variance.
- vii. Variances shall be issued to the property and are not transferable.

SECTION III. ZONING DISTRICT REGULATIONS

C. Building Setback, Lot Area and Density Requirements and Regulations

The following table establishes the set of dimensional standards that shall be applied within the zoning districts of Alexandria Township. These standards shall be interpreted as the minimum requirements for each district (see Section III.C.5 for dimensional standards within the Residential Shoreland District).

	RCR	RR	UR	RS & CS	C-U	C-R	I
Maximum Lot Coverage – Impervious Surfaces							
	25%	25%	25%	See Section III.D	75%	75%	75%
Height (ft)							
Agricultural buildings	35	35	35		40	40	40
Other Structures	35	35	35		40	40	40
Structure Setback from Wetlands							
Protected	50	50	50		50	50	50
All Other Wetlands	25	25	25		25	25	25
Sewage Treatment System Setback from Wetlands							
	50	50	50		50	50	50
Structure Setback from Road Right-of-Way or Easement ¹							
Federal Road	50	50	50	50	50	50	
State Road	50	50	50	50	50	50	
County Road – Urban	-	-	-	-	-	-	
County Road – Rural	-	-	-	-	-	-	
Township Road	32	32	32	32	32	32	
Cartway, Alley,	32	32	32	32	32	32	

¹ The most restrictive of the right-of-way/centerline setback shall apply, unless centerline setback does not apply as per footnote 6.

Avenue, Private accesses serving more than two parcels and other roads							
	RCR	RR	UR	RS & CS	C-U	C-R	I
Structure Setback from Public Road Centerline²				See Section III.D			
Federal Road	-	-	-		-	-	-
State Road	-	-	-		-	-	-
County Road – Urban ³	75	75	75		75	75	75
County Road – Rural ²⁴	100	100	100		100	100	100
Township Road	65	65	65		65	65	65
Cartway, Alley, Avenue, Private accesses serving more than two parcels and other roads	48	48	48	48	48	48	
Structure Setback from Side Yard (See Section VI.A.1.b.i for other improvements required to meet structure setbacks). If an attached two family home is constructed on two contiguous conforming lots a zero (0) lot line setback is permitted between the two lots for the dwelling structure and driveway.)							
Lot existence prior to August 9, 1966	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	6 ft (3 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	
Lot existence on or after August 9, 1966	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	10 ft (5 ft to eaves)	
Structure Setback from Rear Yard (See Section VI.A.1.b.i for other improvements required to meet structure setbacks)							
Dwellings	25	25	25	25	25	25	
Commercial/Industrial bldgs	-	-	-	25	25	25	
Livestock bldgs	100	-	-	-	-	-	
Ag/Accessory bldgs	10	10	10	10	10	10	

SECTION V. PERFORMANCE STANDARDS

J. ACCESSORY BUILDINGS/ATTACHED GARAGES

To provide a higher development standard and to control the size and number of accessory buildings in a residential setting. This section shall be applicable to all parcels of land within the Urban Residential⁴ or shoreland districts that contain five acres or less.

1. General Provisions.⁵

- a. No detached accessory structure shall be utilized for human habitation unless specifically approved as a guest cottage.

² Center Line setback shall not apply in cases where the adjacent road is in a platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the traveled road surface or the actual right-of-way, whichever is more restrictive.

³ County Road 81 between State Highway 27 and the Lake Victoria/Lake Jessie channel. All other County Roads in Alexandria Township are considered Rural.

⁴ Amended 7/2/2007 (Resolution #07-09)

⁵ Amended 3/21/2011 (Resolution #11-02), Amended 8/4/2014 (Resolution #14-02), Amended 8/6/2018 (Resolution #18-01)
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- b. Semi-enclosed or roofed structures, such as attached lean-tos, gazebos, screen porches/patios or other similar structures shall be considered accessory structures or part thereof for the purposes of this section.⁶
- c. Attached garages/storage buildings: A garage or other storage building⁷ not more than 1600 square feet shall be considered an integral part of a dwelling, and not an accessory building or part thereof, if it is attached to the dwelling or is connected to it by a covered passageway. Up to 300 additional square feet may be included as part of an attached garage but the square feet exceeding 1600 shall be subtracted from the allowable amount of accessory building in the table below.
- d. Unpainted galvanized surfaces shall be prohibited on all accessory buildings.
- e. In shoreland areas only:
 - i. No detached accessory building shall be over one story in height. For the purposes of this requirement, at a minimum, any area with a floor truss is defined as a story. No detached accessory building shall have a basement or other sub-grade level in addition to a main floor level.
 - ii. Dormers within the roof of a detached accessory building shall not exceed three (3) feet in width and there shall not be more than three (3) dormers per side of the roof.
 - iii. There shall not be any direct exterior access to or from the attic or other upper level storage area of a detached accessory building.
 - iv. Attic or other storage areas within the rafters of a roof shall be accessed only by attic ladders or pull-down stairways if the storage areas is fully separated from the main level. This requirement shall not apply to lofted or other storage areas that are open to the main level.
- f. In non-shoreland areas:
 - i. A detached accessory building may have a second level provided that such second level is contained completely within the roof rafters.
- g. Cargo Containers⁸. Cargo containers, where allowed, are subject to the same standards as accessory buildings relating to size, setbacks, height or other restrictions unless a specific, more restrictive standard is listed below:
 - i. Cargo containers shall require a conditional use permit or interim use permit, where allowed by this Ordinance. The Township shall determine whether to grant an approval for cargo containers as a conditional or interim use permit.
 - ii. In the granting of a conditional or interim use permit, the Township may add conditions relating to ensuring that the exterior appearance of the container is not detrimental to neighboring properties or the public, maintenance of the container in a reasonable condition of repair, screening of the container from view, size limitations, increased setbacks from property lines, the length of time the container is allowed on the property or other considerations as deemed appropriate.

⁶ Amended 12/17/2007 (Resolution #07-20)

⁷ Amended 6/21/2023 (Resolution #23-04)

⁸ Section added 6/21/2023 (Resolution #23-04)

ii. Exemptions: The following uses/location of cargo containers shall be considered exempt from the requirement of this ordinance and may be allowed in any zoning district and without the need for a conditional use/interim use permit or any other permits:

a) Cargo containers used for periods of up to six (6) months for the purpose of temporary storage related to the owner of a property moving into or out of a building, during the construction of a building or following the partial or complete destruction of a building from a natural disaster. Extensions of the original six (6) month time period shall require a written request to, and approval by, the Alexandria Town Board. Once the use justifying the exemption has ceased, the cargo container shall be removed unless a land use permit is applied for and granted. Cargo containers placed under this exemption need not meet setbacks from property lines but must be placed such that trespass does not occur when accessing the container.

b) Cargo containers which are completely enclosed within a building and not visible from adjacent streets, properties or public trails. When placed within a legally constructed building, property line setback requirements shall not apply.

c) Cargo containers which are displayed for rent or sale as part of a legally allowed commercial business and meet conditions imposed by any applicable interim or conditional use permit.

h. Prohibited storage structures. It is prohibited to use manufactured homes, recreational vehicles and railroad cars primarily as a storage structure.

2. Dimensional Limits

The maximum dimensions of detached accessory buildings (except cargo containers⁹) shall be no greater than as listed in the following table:

Lot Size:	Maximum footprint (individually or combined):	Maximum sidewall height:	Maximum roof pitch:		Maximum number per parcel:
			Shoreland	Non-Shoreland	
0 – 60,000 sq ft	1,500 sq ft	12 feet*	6/12	No limit**	2
60,001 sq ft – 2.5 acres	2,400 sq ft	14 feet*	6/12	No limit**	3
2.51 – 5 acres	3,200 sq ft	16 feet*	8/12	No limit**	4
Greater than 5 acres	No limit**	No limit**	No limit**	No limit**	No limit**

⁹ Amended 6/21/2023 (Resolution #23-04)
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* For roof styles other than gable roofs, the peak of the roof shall not be greater in height than what would be achieved with the highest allowable roof pitch and sidewall in the table above.

**Subject to other applicable ordinance limitations, such as overall height limits and impervious coverage limits.