

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes
June 23, 2025

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met on June 23, 2025, at the Codington County Extension Complex. Members of the Joint Planning Commission/Board of Adjustment participating were: Brenda Hanten, Mark O'Neill, Myron Johnson, Blake Dahle, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer). Absent: Liam Culhane

Others present: Austin Dale, David Carlson, Barbara Younger, Allison Bakken, Brent Zemlicka, Suzanne Brooke, Tyler Kjenstad, Mel Ries, Rodney Klatt, and Becky Goens.

Chair Hanten brought the meeting of the Joint Board of Adjustment to order at 6:36 pm.

Motion by Dahle, second by O'Neill, to approve the minutes of the May 19, 2025 meeting. Motion passed unanimously.

Motion by O'Neill, second by Dahle, to approve the agenda as stated by Staff. Motion passed unanimously.

Motion by Dahle, second by O'Neill, to recess the meeting pending arrival of Board member Johnson.

Chair Hanten brought the meeting out of recess as Board member Myron Johnson arrived.

Motion by O'Neill, second by Dahle, to approve the Conditional Use Permit request by Austin and Katie Dale to construct a shed with 16' sidewalls less than 15' from the side yard setback. Property is located in Lot 104 East Air Haven Subdivision in Government Lot 2, Section 11-T116N-R53W, Codington County, SD. Muller read the Staff Report (attached). The public hearing will include discussion on both the Conditional Use Permit request and the variance application. No one was present to speak on these applications. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by O'Neill, second by Johnson, to approve the 3' variance to side yard setback request by Austin and Katie Dale in Lot 104 East Air Haven Subdivision in Government Lot 2, Section 11-T116N-R53W, Codington County, SD. Staff Report was read with Conditional Use Permit request and public hearing was held in conjunction with the Conditional Use Permit request as well. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Johnson, second by O'Neill, to approve the 5' variance to the front yard setback for the construction of a shed for Tyler Kjenstad. Property is currently owned by Suzanne Brooke and located in Polze Subdivision Lot 4, Lot 13, and the part of lot 3 lying

Southerly and Westerly of a line drawn between the SE corner of Lot 3 and a point 19.8' Northerly of the SW corner of Lot 3 of the plat entitled: Lots 1 through 13 of Polze Subdivision in Government Lot 4, Section 17-T116N-R53W, Codington County, SD. Muller read Staff Report (attached) with regard to all of the variance requests by Kjenstad. The public hearing will also include discussion with regard to all requested variances. Adjoining landowner, David Carlson, inquired about the location of the new proposed garage as the current garage is partially located on Carlson's property. The new garage will be at least 15' from Carlson's property line. No one else spoke on either request. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Johnson, second by O'Neill, to approve the front yard and lake side setbacks for construction of a new garage for Tyler Kjenstad. Property is currently owned by Suzanne Brooke and located in Polze Subdivision Lot 4, Lot 13, and the part of lot 3 lying Southerly and Westerly of a line drawn between the SE corner of Lot 3 and a point 19.8' Northerly of the SW corner of Lot 3 of the plat entitled: Lots 1 through 13 of Polze Subdivision in Government Lot 4, Section 17-T116N-R53W, Codington County, SD. Public hearing was already held with the prior variance request. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion to adjourn made by Johnson, second by Dahle. Motion passed unanimously. Meeting adjourned at 7:34 pm.

Respectfully Submitted,

Becky Goens

JUNE 2025
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT BOARD OF ADJUSTMENT STAFF REPORT

ITEM #1 CONDITIONAL USE PERMIT & VARIANCE

Applicant/Owner: Austin and Katie Dale

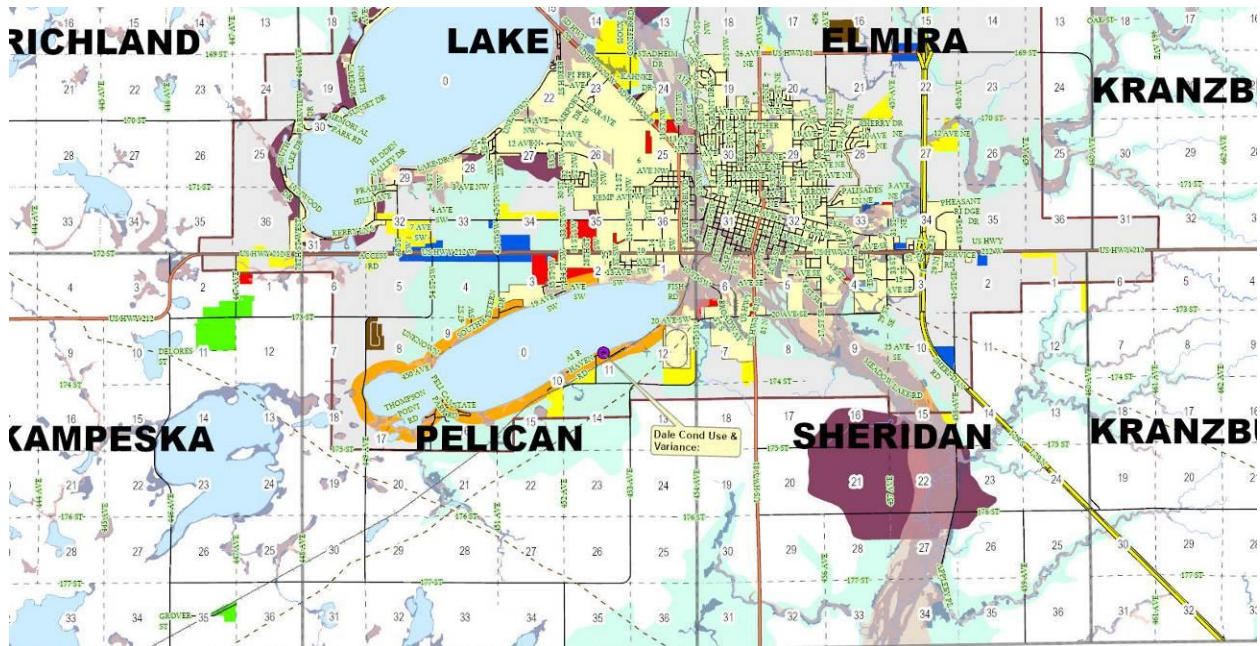
Property Description: Lot 104 East Air Haven Subdivision in Government Lot 2, Section 11, Township 116 North, Range 53 West of the 5th Prime Meridian, Codington County, South Dakota. (Pelican Township).

Lat/Long (Existing Approach): 44.867822°; -97.155703°

Action Items –

Conditional Use Permit – Detached Garage with sidewalls greater than 10' in height (3.07.03.5)

Variance – 3' Side yard Variance (3.07.04.1)



Zoning Designation: LP – Lake Park

Request: The applicant seeks to replace an existing shed that is 12' from the east property line, but construct it with 16' sidewalls.

**Dale Cond. Use & Variance:
Greater than 10' Sidewall & 3' Side Yard Setback**

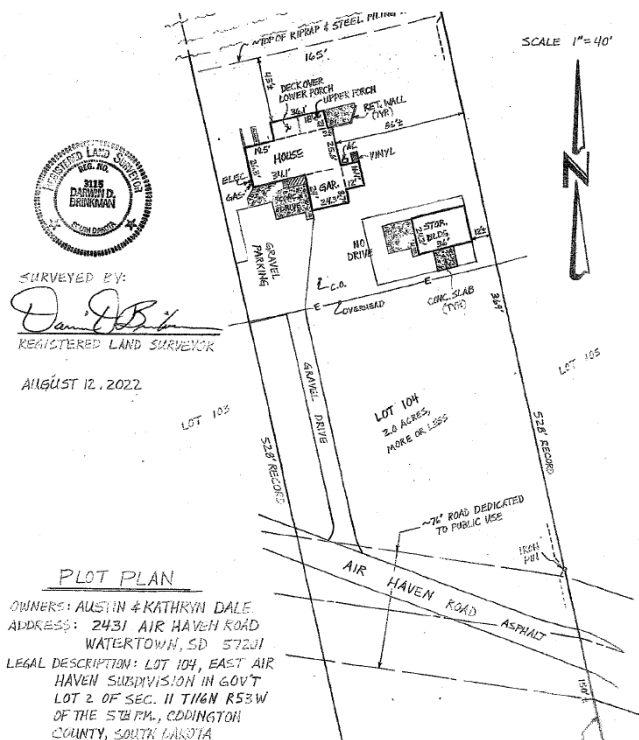
Specifics of Property/Request:

1. The applicants (Dale's) own and intend to live at the above described property with approximately two acres
2. They intend to replace an existing 24' x 36' shed that is located 12' from the east property line (15' required.)
 - a. No permit is on file for the existing shed.
 - b. Applicant seeks to utilize existing foundation/concrete as much as possible.
3. The replacement shed is requested to be 45' x 56' with 16' sidewalls.
 - a. The size/area of the shed meets ordinance requirements.
4. The affected neighbor contacted the zoning office to note he does not object to the replacement in the same location.
5. Approximately 55% of the lot is covered by setbacks or access easement.



Ordinance/Land Use Plan: Conditional Use

1. Both land use plans are silent with reference to garages/sheds with greater than 10' sidewalls.
2. There are no specific requirements listed in the ordinance for detached garages with greater than 10' sidewalls.
3. The applicant will not make any changes to parking, access, lighting, garbage, sanitary sewer/septic, nor provisions of utilities as a result of this application.
4. The Board granted a similar conditional use permits in the last year for sheds with 16' sidewalls in (Lake side: Engels, Fannin, Wiesner) subject to certain conditions recommended below by staff.



Ordinance/Land Use Plan: 3' Variance

1. The Zoning Ordinance requires a minimum side yard setback of 15' feet on lots such as this.
2. The Joint Board has a history of denying construction of NEW structures side or rear yard variances in similar situations.
3. The Joint Board has granted variance to allow in-line additions in the front yard of Lake Park zoned property (Miller) but not in the Ag District since 2015.
4. The County Board has a history of granting variance to allow additions which do not further encroach (get closer) to a side or rear property line in the Ag District if there are no objections from the affected neighbor.
5. Staff has received no comments regarding this request at the time of the report.
6. The Board has a history of granting variances to setbacks where greater than 65% is unbuildable due to setbacks, easements, floodplain, or other natural features. In this case, only 55% of the lot is covered by setbacks and easements.
 - a. Rob Mack was approved, but had over 97% of his lot covered by these features.
7. The (Joint) Board has a history of allowing the replacement (and increase in size) of structures that do not meet setbacks in the Rural Residential District (Pulfrey 2021 – 50% of lot was unbuildable). (Staff is unaware of any requests to the Joint Board to build in line with a structure that doesn't meet side yard setbacks in the LP District.)

Staff Summary and Recommendation:

- **Conditional Use – Accessory structure with greater than 10' sidewalls:** Should the Board approve the request, approval should be subject to the applicant signing a letter of assurance agreeing to the following conditions (the conditions in italics below are carried forward from the variance above).
 1. The proposed structure shall not be used for dwelling purposes.
 2. A conditional use permit shall be required prior to the operation of any business in the proposed structure.
 3. Maximum sidewall height shall be limited to sixteen (16) feet.
- **Variance – 3' Side Yard Variance (build 12' from east line):** The Board has the option to approve, deny, or postpone the request to replace an existing shed with a larger shed, in the same location as an existing shed. *Approval would be based upon:*
 1. The unique size of the lot and configuration of structures on the lot which pre-date the ordinance.
 2. The request is to replace/expand an existing building, but not encroach further (nearer) to the neighbor's property.
 3. Denial would result in unnecessary and unreasonable hardship to remove the existing foundation and replace it with a garage elsewhere on the lot of the same size requested here.
 4. The applicant is requesting the minimum amount of adjustment to retain the ability to have a similarly sized shed as held on neighboring properties.
 5. The Board would only consider approving other similar requests meeting the unique circumstances.
 - a. *Denial would be based upon:*
 1. Literal interpretation of the ordinance would still allow the applicant to place a new garage or move the existing garage to an alternative location;
 2. The necessity to utilize the foundation of the nonconforming shed does not constitute a special condition or circumstance unique to this property; therefore

3. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.

ITEM #2 (5) VARIANCES:

Applicant: Tyler Kjenstad / **Owner:** Suzanne Brook

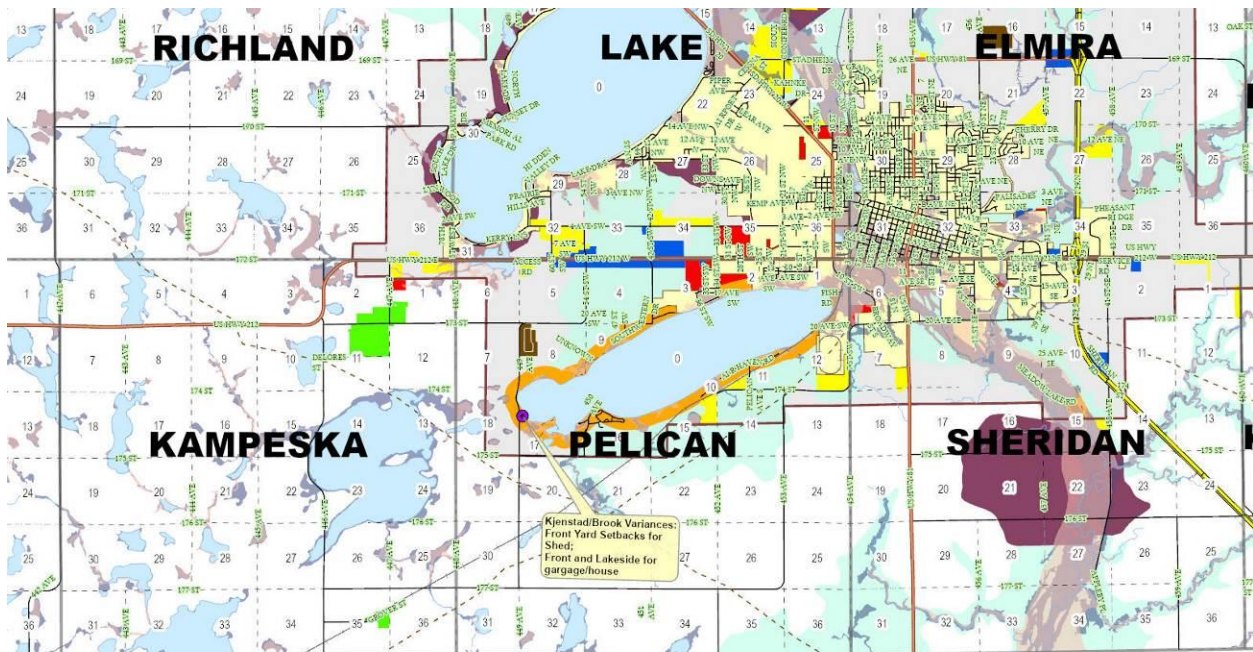
Property Description: Polze Subdivision: Lot 4, Lot 13, and part of Lot 3 lying Southerly and Westerly of a line drawn between the Southeast corner of Lot 3 and a point 19.8' Northerly of the SW corner of Lot 3, of the Plat entitled: Lots 1 through 13 of Polze Subdivision in Government Lot 4 of Section 17, Township 116 North, Range 53 West of the 5th P.M., Codington County, South Dakota (Pelican Township).

Latitude/Longitude: 44.8562829° / - 97.2281478°

Action Items –

Variances –

- **5' Road Front yard Setback (449th Avenue) (3.07.04.1),**
- **5' Road Front yard Setback (W. Pelican Drive) (3.07.04.1),**
- **17.5' Road Front yard Setback (W. Pelican Drive) (3.07.04.1),**
- **10' Road Front yard Setback (Unimproved Lake Access) (3.07.04.1),**
- **20' Lake Front yard Setback (3.07.04.1)**



Zoning Designation: LP – Lake Park

Request: The applicant seeks variances from various setback requirements for clear title (of the house) and the ability to place a new small shed across W. Pelican Drive from the house.

Specifics of Property/Request:

1. Mr. Kjenstad seeks to purchase the above property from Mrs. Brook.
2. Access to this lot is provided via W. Pelican Drive. No direct access is allowed to 449th Avenue.

3. The applicants are working to vacate W. Pelican Drive, and replat the two properties together with an easement in between for access to the north; however, they seek to place the shed on the property before those actions may become effective.

a. The requests for 5' variance to 449th and W. Pelican Drive are not significantly affected by the future vacation and platting of the right-of-way.

4. The applicant intends to replat the property to place the right-of-way/easement in the correct location regardless of whether the street is vacated, due to the present location of the garage in the right-of-way.

a. It should be noted that the applicant seeks the vacation and plat (into one lot) to allow the ability to replace the septic tank. (If less than 20,000 sq ft, no septic tank is allowed.)

5. The request in reference to the lake-side portion of the future lot is to authorize the reconstruction of the house and accessory structures in accordance with the setbacks locations specified in the application.

a. North = 15' (no variance requested)

b. South = 20'

c. East = 45' from ordinary high water mark.

d. West = 12.5'

6. The house was built in 1930.

7. Setbacks and easements cover approximately 82% of this (these) lot(s).

8. Much of this property is also within the currently effective floodplain (not included above in % coverage.) However, preliminary maps indicate that the floodplain will be confined to the shores of Lake Pelican in this area in the future.

9. At the time of this report, staff has received no complaints or objections regarding this request (including from the Codington County Highway Superintendent.)

a. It should be noted that Pelican Township has noted that W. Pelican Drive is not on their system, and therefore has no objection to vacation, nor (implied) variance.

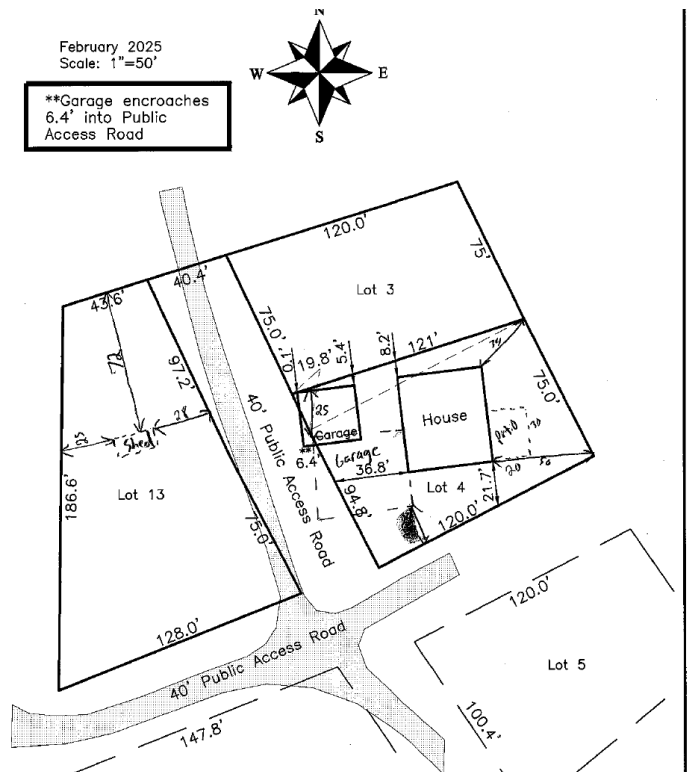
Ordinance/Land Use Plan: 5' Variance to 449th and 5' Variance to W. Pelican Drive (Aqua dotted lines on map below)

1. The Joint Board has a history of granting variances to decrease front yard setbacks in the Lake Park District on lots with greater than 65% of the lot covered by setbacks, easements, floodplain, etc. This lot has over 81% of the lot covered by such features.

2. The request would reserve a 25' setback on both W. Pelican Drive and 449th Avenue.

3. This portion of the request most closely resembles that of Todd Florey in 2020. The Board allowed variance in that case to front and rear setbacks (there was no road on the back side) due to the shape and size of the nonconforming lot, on the condition the applicant agree to plat or combine the lots with a "Lot Tie" or "Development Lot Agreement."

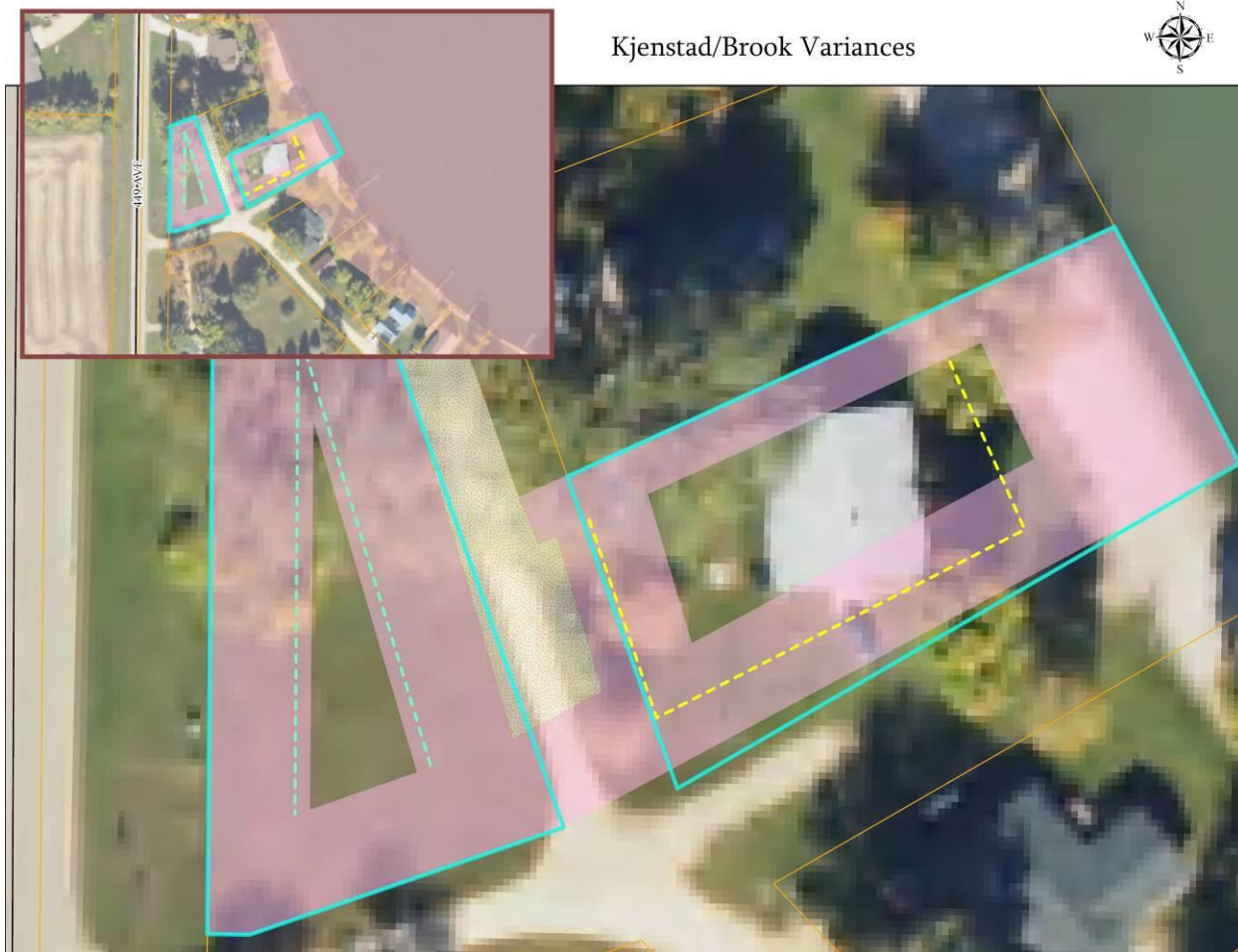
a. In this case those agreements are impractical due to the restriction on the septic.



4. The Board has not denied a similar request (though has amended and modified requests) where the applicant is determined to be making the minimum request necessary to accommodate the proposed use.

Ordinance/Land Use Plan: 17.5' Variance to W. Pelican Drive; 10' Variance to lake access; 20' variance to lake front setback (yellow dotted lines on map below)

1. The Joint Board has a history of granting variances to decrease front yard setbacks in the Lake Park District on lots with greater than 65% of the lot covered by setbacks, easements, floodplain, etc. This lot has over 81% of the lot covered by such features.
2. The Board has not denied a similar request where the applicant is determined to be making the minimum request necessary to accommodate the proposed use.
3. This portion of the request most closely resembles those variances granted to Lee and Kay Quale; Maurie Steinley; Rob Mack; and Dale and Joy Miller.
 - a. In the case of Quale, the Board allowed variance due to the combination of lots and removal of multiple building rights; as well as due to the minimum requested adjustment to allow for the construction of a residence and accessory structures.
 - b. In the other cases, variances were granted to allow reconstruction or expansion of structures in the same general footprint (built area) of existing structures.



Staff Summary:

Though five variances are listed, staff recommends that one motion be made to approve the setbacks in Aqua above (two 5' variances to each respective front yard setback); and one motion to approve the setbacks shown in Yellow above (Variances to two front yard setbacks and one lake side setback). If a board member intends to address one specific variance/setback individually a "Motion to split the question" may be made to address them individually. Findings of fact will be prepared individually for each of the five variances.

Regardless of whether the properties on either side of the current W. Pelican Drive are platted as a single lot with an easement or remain the same, the action and need regarding the aqua setbacks is unaffected (variance is actually more necessary if not platted together.) Further, only the setback variance on the west side, would become moot if future platting did not occur. Finally, approval of a variance does not imply authorization by the county for the existing garage to continue occupying the right-of-way.

Staff Recommendation:

Variance – 5' Front Yard Variances (449th Avenue & W. Pelican Drive): The Board has the option to approve, deny, or postpone the request to construct a shed, 25 feet from each right-of-way line. *Approval would be based upon:*

1. The unique size and shape of the lot.
2. The ordinance and topography creates a unique hardship on this property in that it renders over 81% of the lot unbuildable without the variance(s).
3. The Board has a history of granting variances to lots with a similar percentage of the lot covered by required setbacks and/or floodplain.
4. The Board would only consider approving other similar requests meeting the unique circumstances.
5. The request, if approved would eliminate one buildable lot which is insufficient in lot area for a residence.
6. In order to comply with the intent of the Lake Park District and the Comprehensive Land use Plan the following conditions shall be agreed to by the property owner:
 - a. On or before June 23, 2026 the applicant/property owner shall present a plat in accordance with the Subdivision Ordinance combining all of the property included in this application into a single lot with an access easement replacing the right-of-way; or
 - b. An agreement/deed restriction is recorded at the register of deeds agreeing that all properties included in this application are to be transferred together in the future.
 - c. No structures will be placed closer than 25' from 449th Avenue, nor less than 25' west of W. Pelican Drive.
 - d. No direct access is allowed to this (these) lot(s) from 449th Avenue.

○ *Denial would be based upon:*

1. Literal interpretation of the ordinance would still allow the applicant to place a new shed in an alternative location;
2. The size and shape of the lot is not so unique to constitute hardship worthy of granting a variance.
3. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.

Variance – 17.5' Front Yard Variance to W. Pelican Drive setback; 10' Front Yard Variance to Lake Pelican Access; 20' Variance to Lake Side setback: The Board has the option to approve, deny, or postpone the request to replace an existing shed with a larger shed, one foot closer to the side property line. *Approval would be based upon:*

1. The unique size and shape of the lot.
2. The ordinance and topography creates a unique hardship on this property in that it renders over 81% of the lot unbuildable without the variance(s).
3. The Board has a history of granting variances to lots with a similar percentage of the lot covered by required setbacks and/or floodplain.
4. The Board would only consider approving other similar requests meeting the unique circumstances.
5. The request, if approved would confine construction to the existing area being utilized except that structures would be placed farther from W. Pelican Drive.
6. In order to comply with the intent of the Lake Park District and the Comprehensive Land use Plan the following conditions shall be agreed to by the property owner:
 - On or before June 23, 2026 the applicant/property owner shall present a plat in accordance with the Subdivision Ordinance combining all of the property included in this application into a single lot with an access easement replacing the right-of-way; or
 - An agreement/deed restriction is recorded at the register of deeds agreeing that all properties included in this application are to be transferred together in the future.
 - This action in no way authorizes the location of the existing garage located within the W. Pelican Drive right-of-way.