

RESOLUTION NO: 23-43

TOWN OF BALDWIN  
COUNTY OF SHERBURNE, MINNESOTA

APPROVAL OF A VARIANCE  
FOR PID 01-428-0150

**WHEREAS**, property owners Jeffery and Kimberly McEwen have submitted an application for variance to allow construction of a 1,824 square foot detached accessory building that encroaches into a required side yard setback.

**WHEREAS**, the property is located at 28204 131<sup>st</sup> Street and is legally described as legally described as Lot 10, Block 1, Oak Grove Estates, Baldwin Township; and

**WHEREAS**, the property is guided for rural land uses Comprehensive Plan.

**WHEREAS**, the property is zoned R1, General Rural District and is within the Shoreland Overlay District.

**WHEREAS**, applicant is requesting a variance from:

- A. Section XX-18-2.F of the Zoning Ordinance to allow construction of a 1,824 square foot detached accessory building.
- B. Section XX-51-8.B of the Zoning Ordinance to allow encroachment into a required side yard setback.

**WHEREAS**, The Town Board must take into consideration the possible effects of the request with their judgment based upon (but not limited to) the criteria outlined in Section XX-6-3 of the Zoning Ordinance:

- A. That the variance would be consistent with the comprehensive plan.

*Finding: Construction of the proposed detached accessory building is within the lot coverage limits for detached accessory buildings intended to control the scale and bulk of structures accessory to residential uses and to maintain rural character consistent with the Comprehensive Plan.*

- B. That the variance would be in harmony with the general purposes and intent of this ordinance.

*Finding: The proposed detached accessory building is within the lot coverage limits for detached accessory buildings that serve to maintain compatibility of accessory structures with surrounding properties. A limit on the area of individual buildings within the total lot coverage limits for all detached accessory buildings does not control the scale or bulk of structures within the lot and has the opposite effect of resulting in perceived greater development of the lot and crowding of buildings. Furthermore, mandating that the allowed detached accessory building area be divided into multiple structures causes practical difficulties for the ability to utilize the allowed building area. The requested variance provides for a reasonable use of the property not allowed by the Zoning Ordinance that is consistent with the intent of the accessory building performance standards.*

- C. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.

*Finding: The practical difficulties of the area limit for individual detached accessory buildings are not caused by the property owner but by the regulation itself, which is not correlated with the area or other circumstances of the property, unlike the limit on lot coverage of all detached accessory structures.*

- D. That the purpose of the variance is not exclusively economic considerations.

*Finding: The need for variance is not based solely on economic considerations.*

- E. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.

*Finding: The construction of the proposed detached accessory building complies with the lot coverage limits for detached accessory buildings, which would apply consistently to other lots within the same plat and those properties within the R1 District.*

- F. That the requested variance is the minimum action required to remedy the practical difficulty.

*Finding: The requested variance allowing a single detached accessory building is the minimum action available to eliminate the practical difficulty.*

- G. The potential for the variance to impact natural resources such as surface water, groundwater, or wetlands; sites identified for rare biological species habitat; ecologically sensitive areas; or historically significant areas.

*Finding: Approval of the requested variance reduce impacts to natural resources within the lot by utilizing an existing concrete slab and avoiding removal of existing trees and other vegetation that would be necessary to relocate the structure in compliance with required setbacks.*

- H. No variance shall be granted that would allow for a lesser degree of flood protection than required by this ordinance.

*Finding: Approval of the variance will not allow for a lesser degree of flood protection.*

- I. Variances shall not be approved for any use that is not allowed under this ordinance for property in the zoning district in which the parcel or lot is located.

*Findings: Detached accessory buildings are a permitted accessory use allowed within the R1 District.*

**WHEREAS**, the planning reports dated 20 November 2023 and 30 November 2023 prepared by the Town Planner, The Planning Company LLC, are incorporated herein; and,

**WHEREAS**, the Planning Commission conducted a public hearing at their meeting on 29 November 2023 to consider the application, preceded by published and mailed notice; based upon review of the application and evidence received, the public hearing was closed, and the Planning Commission voted 7-0 to adopt findings of fact and recommend the Town Board approve the request; and,

WHEREAS, the Town Board considered the application and the recommendations of the Planning Commission at their meeting on 4 December 2023.

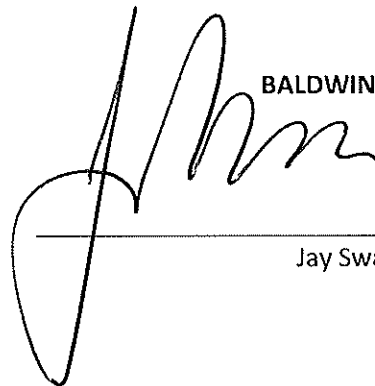
NOW THEREFORE BE IT RESOLVED by the Town Board of Supervisors of Baldwin Township that based on the foregoing findings, information, and applicable ordinances, the application is **APPROVED**, subject to the following conditions:

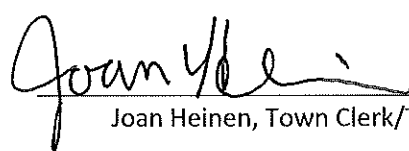
1. The proposed detached accessory building shall not be used for living quarters or for business purposes, except as may be allowed in accordance with the requirements of the Zoning Ordinance.
2. The proposed detached accessory building shall comply with the setback requirements of the R1 District except as required for placement of the building posts at the perimeter of the existing concrete slab as approved by variance, subject to review and approval of the Zoning Administrator.
3. Subsurface Sewage Treatment System certification shall be subject to review and approval of the Building Official.

ADOPTED by the Town Board of Supervisors of Baldwin Township this 4<sup>th</sup> day of December, 2023.

MOTION BY: *Cash*  
SECOND BY: *Rush*  
ALL IN FAVOR: *All*  
THOSE OPPOSED: *None*

*Jeff Holm Absent*  
*Bryan Lawrence Absent*  
*3-0 vote*

BALDWIN TOWNSHIP  
  
\_\_\_\_\_  
Jay Swanson, Chair

ATTEST:  
  
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Joan Heinen, Town Clerk/Treasurer