

RESOLUTION NO: 24-34

**TOWN OF BALDWIN
COUNTY OF SHERBURNE, MINNESOTA**

**APPROVAL OF A VARIANCE
FOR PID 01-00031-1320**

WHEREAS, Jake Bayerl has submitted an application for variance to allow construction of a 1,920 square foot detached accessory building that encroaches into a required rear yard setback at 28145 Elk Lake Road (CR 87); and

WHEREAS, the property identified as PID 01-00031-1320 legally described as:

That part of Government Lot 3, Section 31, Township 35, Range 26, Sherburne County, Minnesota, described as follows: Beginning at the intersection of the centerline of the Township Road and the south line of said Government lot 3, said point of intersection lying 125.24 feet west of the northeast corner of Government Lot 4 in said Section 31 as measured along said south line of said Government Lot 3; thence North 24 degrees 22 minutes East along said centerline of Township Road a distance of 633.92 feet; Thence South 89 degrees 51 minutes East a distance of 323.64 feet; thence South 24 degrees 22 minutes West to an intersection with the south line of said Government Lot 3; thence west along said south line to the point of beginning. For the purpose of this description, the south line of said Government Lot 3 is assumed to bear due East and West.

WHEREAS, the property is guided for rural land uses by the Comprehensive Plan; and

WHEREAS, the property is zoned R1, General Rural District and is also located within the Shoreland Overlay District of Elk Lake and Little Diamond Lake; and

WHEREAS, the applicant is requesting a variance to allow construction of a 1,920 square foot detached accessory building that exceeds the size allowed for any individual detached accessory building and that encroaches into a required rear yard setback

WHEREAS, the Planning Commission conducted a public hearing at their meeting on 28 August 2024 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 6-0 to recommended that the Town Board approve the request.

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 and setback encroachment is caused by the natural conditions of the subject property that limits potential building sites for one, much less two, detached accessory buildings.

- 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 report dated 5 September 2024 prepared by the Town Planner, The Planning Company LLC, is incorporated herein.

NOW THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF BALDWIN TOWNSHIP THAT based on the foregoing information and applicable ordinances, Town Board hereby **APPROVES** the application, subject to the following conditions:

1. The lot shall be developed in accordance with the plans on file with the Town as provided for by Section XX-6-5 of the Zoning Ordinance, subject to review and approval of the Zoning Administrator.
2. 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.
3. The proposed detached accessory building shall comply with the setback requirements of the R1 District except as approved by variance, subject to review and approval of the Zoning Administrator.
4. Subsurface Sewage Treatment System certification shall be subject to review and approval of the Building Official.

(Remainder of this page intentionally blank signatures to follow)

ADOPTED by the Town Board of Baldwin Township this 9th day of September, 2024.

MOTION BY: *Holm*
SECOND BY: *Case*
ALL IN FAVOR: *All*
THOSE OPPOSED: *None*

BALDWIN TOWNSHIP

BY: 

Jay Swanson, Chair

ATTEST:

BY: 

Joan Heinen, Town Clerk/Treasurer