# Board of Adjustment
# October 23, 2025
# VAR-25-019

POPE COUNTY MINNESOTA

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# STAFF REPORT

## Applicant Information

**Applicant:** James & Laura Rentz

**Application:** Variance (VAR-25-019)

**Zoning:** Shoreland-Recreational Development (S-RD)

**Location:** Lot 5, Plat of the First Addition to Clearwater Bay, Section 35, Township 126 (Leven), Range 37, Pope County, Minnesota

## Background

The applicant is seeking a variance that would allow for the locating of a structure that will ultimately encroach into the minimum road right-of-way setback by approximately twenty-five (25) feet. The structure (an 8 ft by12 ft storage shed) is currently located off of the property but within the road (Clearwater Bay Rd) right-of-way. The owner proposes to relocate the shed onto their parcel which is located directly west of the shed's current location. Based on the proposed relocation site, the shed will be approximately fifteen (15) feet from the road right-of-way. The current parcel is fully developed with 42.4% impervious surface coverage. The proposed location for the shed is on an existing surfaced driveway. Therefore, there will be no increase in the impervious surface coverage on the parcel. The contents of the shed include combustible materials that the owner does not want located in their inhabitable garage for safety reasons.

## Applicable Statutes

### Local Ordinance

- Pope County Land Use Controls Ordinance
  - Section 4.3 Shoreland-Recreational Development District (S-RD)
    - Section 4.3.4 Setbacks

*G. Right-of-way line of town road, public street, other legal roads or streets not classified: 40 Feet*

  - Section 4.6 Shoreland District Regulations

4.6.5 Placement, Height, and Design of Structures

| Setback from: | Setback (feet) |
|---|---|
| Top of Bluff | 30 |
| Side Yard | 10 |
| Unplatted cemetery | 50 |
| Right-of-way line of federal, state, or county highway | 50 |
| Right-of-way line of town road, public street, other legal roads or streets not classified | 40 |

    - Section 11.6 Variance from Standards

### State Statute/Rule

- Minnesota Statutes, Chapter 394 Planning, Development, Zoning *(enabling legislation)*
  - Section 394.27 Subdivision 7 *Variances; practical difficulties*
- Minnesota Administrative Rules, Chapter 6120, *Shoreland and Floodplain Management*

- Part 6120.3300 Zoning Provisions
- Part 6120.3900 Subpart 3 Variances: *Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.*

## Staff Comments

Staff offers the following comments for consideration:

The shed structure is currently located directly adjacent to the Clearwater Bay Road. The owners were sent a formal Notice of Potential Violation. In response, the owners are seeking to properly locate their shed onto their own property. However, there is limited space available on the property to locate the shed without needing to encroach into a minimum setback standard or exacerbating the impervious surface coverage threshold. So, by locating the shed on what is already considered impervious surface, there will result in no effective change in that threshold. However, the shed will be located at approximately fifteen (15) feet from the road right-of-way.

When looking in the neighborhood within 500 feet of the proposed structure, there are at least six (6) structures to the north that encroach closer than forty (40) feet from the road right-of-way. And when analyzing parcel development to the south it is apparent that there are at least four (4) structures that encroach too close to the road right-of-way. Two of those most recently constructed structures have the benefit of a variance. Including a variance, issued to Christopher and Jessica Buysse in 2019 which allowed for the garage to be at sixteen (16) feet from the road right-of-way. While in 2025 a variance was issued to Richard and Barbara Mrugala which allowed for their garage to be located at fifteen (15) feet from the road right-of-way.

Based on Minnesota Statute 394.27 Subd. 7: A variance may be granted if it is in harmony with the general purposes and intent of the official control and when the variance is consistent with the comprehensive plan. A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner “practical difficulties.” The standard for establishing a Practical Difficulty is as follows:

1. **Reasonableness**

   The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean the land cannot be put to any reasonable use whatsoever without the variance. For example, this variance application is for the locating of a small storage shed which would result in not meeting a minimum specified setback standard. The question to be considered is: whether or not a shed constitutes a reasonable use on the parcel.

2. **Uniqueness**

   The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a structure to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as an irregular parcel shape or sloping topography or other natural features like wetlands or trees that prevent the structure from being located in compliance. The specific circumstance that necessitates a variance is that the shed can only be located on a portion of the property that is already covered with an impervious surface. In this case, that area being the driveway.

3. **Essential Character**

   The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about this variance for the locating of this particular shed, how will the proposed structure and its location look when compared to others in the neighborhood, and if that fits in with the character of the area. As stated earlier, there are as many as ten (10) other structures in this neighborhood that encroach into the road right-of-way setback.

## Staff Recommendation

Staff concurs that the storing of flammable materials is safer in a detached shed structure rather than in the inhabitable structure. Having reviewed and considered the application, local ordinances, and state statutes, staff does not object to the issuance of a variance in this case. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider. If the Board of Adjustment does grant a variance to the applicant, Staff recommends that the following conditions be considered:

1. The proposed accessory structure, including overhangs, may not be located any closer than fifteen (15) feet from the road right-of-way.
2. That prior to any construction activities, all necessary permits are secured from Township, County and State Agencies.
3. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.

## Staff Findings

Based upon the information available at the time of writing of this report, Staff proposes the following findings of fact for consideration by the Board of Adjustment. These findings may be amended based upon additional information gathered during the public hearing and discussion process.

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**

   ***Finding:*** The Minnesota DNR Shoreland Rules Ch 6120 as well as the Pope County Land Use Controls Ordinance regulate the location of structures in shoreland designated areas. The purpose of the required setback for structures from roadways is to protect personal property; provide for maintenance and potential expansion of public roads; ensure safety for all users of roads and for those adjacent to roads; and to preserve the neighborhood character and aesthetics. Providing for residential and recreational development on riparian parcels and recognizing that there are sometimes physical limitations on certain parcels due to topographic and other environmental impediments is not inconsistent with the Comprehensive Plan provided that official processes and controls are adhered to. A variance granted allowing for the shed structure to be at least fifteen (15) feet from the road right-of-way, does not create a conflict with the overall goal of the official controls.

2. **Use of property/structure is a reasonable use:**

   ***Finding:*** A storage shed is not uncommon in shoreland areas.

3. **Character of locality and detriment to neighboring properties:**

   ***Finding:*** The proposed structure is consistent with other uses and development in the neighborhood. The location of the structure is not inconsistent and is not likely to change the character of locality due to its proximity to the road right-of-way and the travelling public.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**

   ***Finding:*** The circumstances contributing to the need for the variance are that the property owner desires to continue to use the shed for storage of combustible materials so as to not locate them in an inhabitable structure. The stand alone shed can only be located on an already covered (impervious surface) area. Regardless of whether or not the situation can be argued as “self-created”, this is a situation that involves an aspect of human and property safety and the proposed location for the shed and its contents is the most logical solution, that doesn’t require further mitigation or impacts to the developed property.

# REPORT APPENDIX

- **Routing Sheet** *(Comments, concerns and conditions)*
- **Public Notice**
- **Supplemental Information**
  - **Attachment 1:** *Variance Application (James & Laura Rentz, 17 September 2025)*
  - **Attachment 2:** *Certificate of Survey (Nyberg Surveying, 28 August 2018)*
  - **Attachment 3:** *Site Visit Photos (L&RM Staff, 13 October 2025)*

# Routing Sheet

*Comments, Concerns and Conditions*

| | |
|---|---|
| Agency | |
| MN DNR | No comment received. |
| County Department | |
| Attorney | No comment received. |
| Engineer | No comment received. |
| Township | |
| Leven | No comment received. |
| Other Comments Received | |
| | No comment received. |

# Public Notice

**POPE COUNTY LAND & RESOURCE MANAGEMENT**
**POPE COUNTY COURTHOUSE**
**130 E. MINNESOTA AVENUE**
**GLENWOOD, MINNESOTA 56334**
**(320) 634-7791**

## POPE COUNTY BOARD OF ADJUSTMENT
## NOTICE OF PUBLIC HEARING FOR
## VARIANCE REQUEST

**Notice is hereby given** that a Public Hearing will take place in conjunction with the Board of Adjustment meeting to be held at 6:00 pm or shortly thereafter on Thursday, October 23rd, 2025 in the Pope County Courthouse, 3rd Floor Board Room, to consider the following variance request.

**Description of Request**: Variance hearing on the application by James and Laura Rentz (VAR-25-019, Parcel#02-0448-000), if granted would allow applicant relief from the road right-of-way setback standard in a Shoreland-Recreational Development (S-RD) zoning district per section 4.3.4.G and 4.6.5.A.3 of the Pope County Land Use Controls Ordinance.

**Legal Description/Site Location:** Lot 5, Plat of the First Addition to Clearwater Bay, Section 35, Township 126 (Leven), Range 37, Pope County, Minnesota.

Public participation will include an opportunity to:

1) submit written concerns and comment prior to the scheduled meeting. All such communications will be shared with the Board of Adjustment prior to or during the meeting;
2) submit concerns and comments via Pope County's Public Comment web map, go to https://www.popecountymn.gov, at the top of the page hover over Government, then under Board of Adjustment/Planning Advisory Commission, select Submit a Public Comment or type in the following link to access the Public Comment web map: (https://popecounty.maps.arcgis.com/apps/webappviewer/index.html?id=22a203912a864a77b4cdabe672e35e3f)
3) opportunity to review the staff prepared report via Pope County website;
4) observe and/or participate by providing verbal comments in the Public Hearing portion of the Board of Adjustment meeting.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. ***Notices of Decision*** *will be posted* ***online*** *shortly after decision making at the following Pope County webpage:*

- *https://www.popecountymn.gov/land-resource-management/boa-pac-notices-of-decision/*

Thank you for your patience and consideration in this matter.

**Dated:** October 3, 2025,
**By:** Jessica Hill, Zoning Administrator, Land & Resource Management

# Supplemental Information

## Supplemental Information Attachment 1:

***Variance Application***
***(James & Laura Rentz, 17 September 2025)***

POPECOUNTY
MINNESOTA

# VARIANCE APPLICATION

**L&RM FORM 18**

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## VARIANCE APPLICATION

*A variance allows a modification or variation of the provisions of the Pope County Land Use Controls Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of any provision of the ordinance would cause the landowner practical difficulty. (see Practical Difficulty Test on the following page)*

*Variances from official zoning controls are defined under Minnesota Statute 394.27 and require the landowner to prove the property could not otherwise be used or enjoyed in the proposed way by complying with the Pope County Land Use Controls Ordinance and there will be no negative impact on surrounding properties.*

*Prior to submission of this application, please discuss your variance request with the Land and Resource Management department.*

VAR-25-819

### Applicant Information

| | |
|---|---|
| Applicant Names | James and Laura Rentz |
| [redacted] | |

### Property Description

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Property Address | 15571 Clearwater Bay Rd | | | City | Villard | State MN | Zip 56385 |
| Township Name | Leven | | | Section | 35 | Twp 126 | Range 37 |
| Parcel No. | 02-0448-000 | | | Associated Parcel No. | | | |

### Project Narrative

| | |
|---|---|
| What is the variance application for? | setback between a structure and road right of way |

**Provide written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized:**

In October 2023 we purchased a portable 8' x 12' storage shed. It was placed on the land across the cart way by our cabin. We chose this area because we removed a concrete block planter of a similar size that was on this land for nearly 15 years. We have always maintained this land and since the structure was portable and only 92 sq ft we thought it could be placed there.
A complaint was filed recently and the county notified us that the shed is not compliant.
As a result, we are requesting a variance to keep this shed. We want to move it to an area that is currently considered impervious, our paved driveway. It would be set on a small section of the pavement in front of an existing fence. Given a choice of increasing our impervious surface or encroaching on the road right of way, the encroachment to the cart way is less impactful to the lake. The set back could be 15 feet from the cart way.
The shed is very important to us, as we house gasoline, propane, lawnmowers and grills in it, rather than storing them in the garage, as we have sleeping quarters above our garage. Safety is a high priority for us.

## Practical Difficulty Test

*A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a three factor test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.*

1. ***Reasonableness***

*The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.*

2. ***Uniqueness***

*The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.*

3. ***Essential Character***

*The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.*

| Questions | Yes/No |
|---|---|
| Does your project satisfy all three factors of the Practical Difficulty Test? | Yes |
| **Please state how your project satisfies all three factors in the space provided below:** | |

1. Reasonableness: We wish to keep the shed for safety reasons. Since we have added sleeping quarters above our garage, we do not want to store lawn mowers, gasoline, propane and grills in the lower level of our garage. We store them in the shed to minimize safety issues for people staying upstairs in the garage. Having an accessory structure on a shore land lot is a reasonable use for storage of tools and equipment.

2. Uniqueness: Our options are limited as to where we can place this structure because of locations of the house and garage. Previous development decisions were made prior to our purchase of the property. We are trying to determine where to place this shed without impacting the existing impervious conditions. The set back could be 15 feet from the cart way.

3. Essential Character: The shed is two years old and was built to complement the cabin and the garage. The color, design and size enhances our property. We are not changing the essential character, as many in our neighborhood have accessory structures.

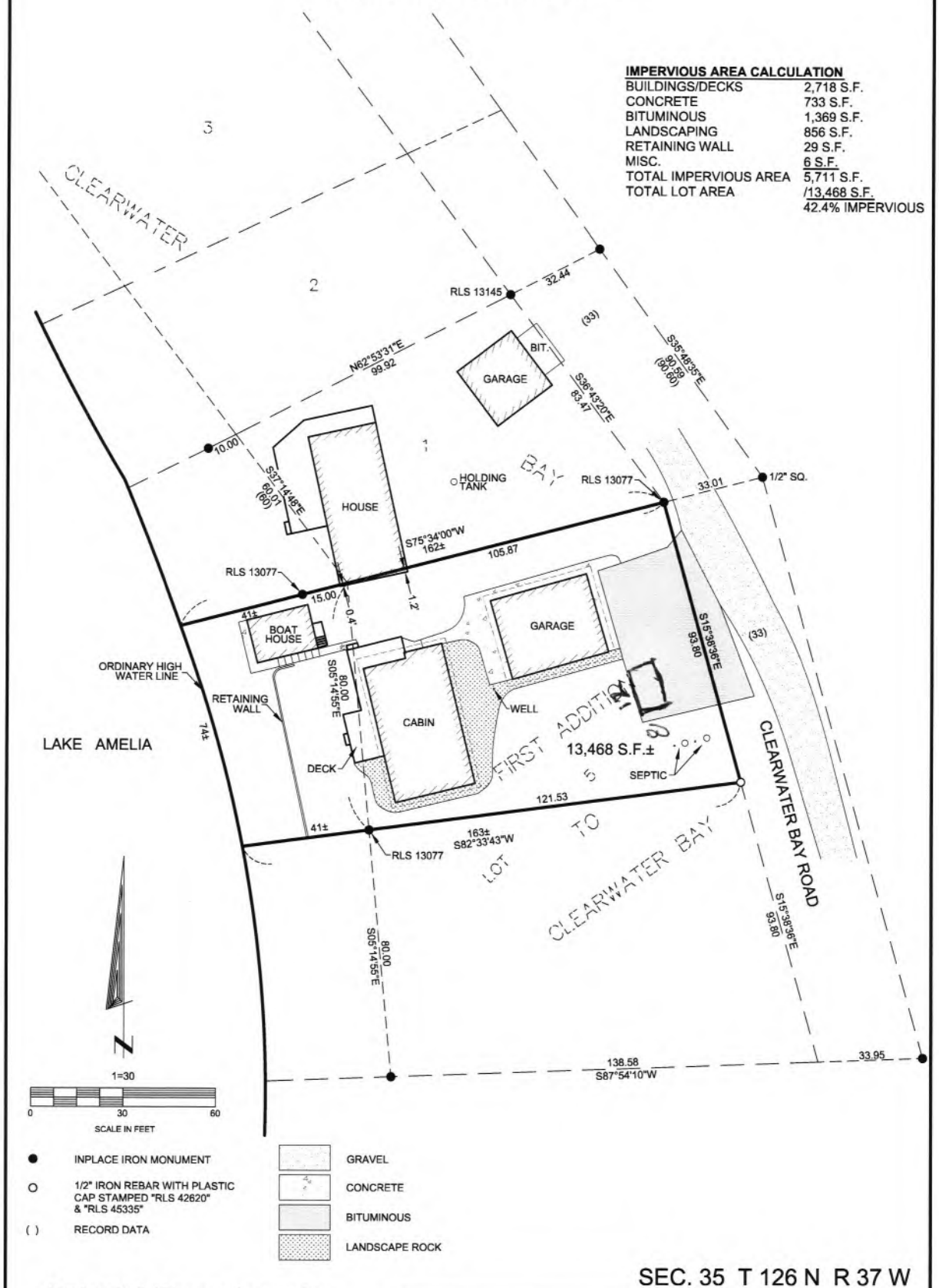


Pope County Land & Resource Management
130 East Minnesota Ave. | Glenwood, Minnesota 56334 |
Phone: (320) 634-7791 | Email: pub.lrm@popecountymn.gov
Website: https://www.popecountymn.gov/land-resource-management/

## Supplemental Information Attachment 2:

***Certificate of Survey***
***(Nyberg Surveying, 28 August 2018)***

# CERTIFICATE OF SURVEY




SEC. 35 T 126 N R 37 W

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Brad M. Nyberg

Date August 28th, 2018 License No. 42620

DATE: 8/28/2018 • DRAWN BY: JSM • CHECKED: BMN • JOB NO. 9849

REQUESTED BY: JIM RENTZ

Nyberg SURVEYING
509 22ND AVE. EAST, SUITE 101
ALEXANDRIA, MINNESOTA 56308
PH. (320) 762-4111 * FAX (320) 762-4112
www.nybergsurveying.com

## Supplemental Information Attachment 3:

***Site Visit Photos***
***(L&RM Staff, 13 October 2025)***