

CITY OF ST. AUGUSTA
BOARD OF ADJUSTMENT
DECEMBER 8, 2025
6:30 pm (or immediately following the Planning
Commission Meeting, whichever is later)
AGENDA

1. Call Meeting to Order – Mayor Schmitz.
2. Pledge of Allegiance.
3. Honer Board of Adjustment Appeal
4. Adjourn.

REMINDERS:

Planning Commission Meeting, Monday, December 8, 2025 6:00pm
Board of Adjustment Meeting, Monday, December 8, 2025 6:30pm
Gaberline Road Open House, Tuesday, December 16, 2025 5:00pm
City Council Workshop Meeting, Tuesday, December 16, 2025 7:00pm
Christmas Day, Thursday, December 25, City Hall Closed
New Year's Day, Thursday, January 1, City Hall Closed
Planning Commission Meeting, Monday, January 5, 2026 6:00pm
Regular City Council Meeting, Tuesday, January 6, 2026 7:00pm

HONER APPEAL OF ZONING ADMINISTRATOR'S DECISIONS REGARDING CONSTRUCTION OF AN ACCESSORY AGRICULTURAL BUILDING ON PID 81.43155.0405

This memo was prepared by City Attorney Mike Couri in consultation with the City Administrator in response to the Honers appeal to the Board of Adjustment as set forth in Mr. Adam Ripple's letter to the City Administrator and the City Attorney. The City Council must decide the relevant facts and the proper interpretation of the City's Zoning Ordinance after giving Mr. Honer the right to be heard before the Council.

The numbered headings below are the headings of the various points made in Adam Ripple's letter of November 26, 2025. The text below those headings conveys the position of the City Administrator and the City Attorney both as to the facts that occurred and why the City Administrator/Zoning Administrator and City Attorney came to the conclusions that they did in interpreting the Zoning Ordinance.

Relevant provisions of the Zoning Ordinance:

Accessory Structure or Use: A subordinate building or use located on the same lot as the principal building or use and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

Agricultural Building: A structure on agricultural land designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. An agricultural building shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor shall it be a place used by the public.

Farm: A tract of land greater than ten (10) acres in size that is principally used for agricultural activities such as the production of cash crops, livestock, or poultry farming. Such a farm may include agricultural dwellings and buildings and structures necessary for the operation of the farm.

Farm - Hobby: A tract of land generally consisting of ten (10) or fewer acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income.

Farming: The process of operating a farm for the growing and harvesting of crops, which shall include those necessary buildings related to operating the farm and the keeping of common domestic farm animals.

Farmstead: A dwelling unit surrounded by or connected to a farming operation, all under single ownership.

Analysis of Adam Ripple's November 26, 2025 letter to the City:

1. The Building Is an Agricultural Building.

City staff agrees that from a building code perspective, the building could qualify for use as an agricultural building if it is used to house only farm implements, hay, grain, poultry, livestock, or other horticultural products. As an agricultural building, it would be exempt from the State Building Code. One of the relevant questions before the Council is whether the Honer building can be an **accessory** agricultural building on this residential lot. City staff believes that because there is no farming activity occurring on the Honer residential lot, the building cannot meet the definition of an accessory structure because an agricultural building is not reasonably necessary and incidental to the residential or daycare use that is occurring on the property.

2. The Property Must Be Considered a "Farm" Under the City Code.

a. "Tract" Must Be Interpreted to Include Contiguous Lands Under Common Ownership and Use.

Tract is defined as a lot of an undefined size in Black's law dictionary. The "unity of ownership" concept referred to in Mr. Ripple's November 26, 2025 letter comes from Minnesota statutes on condemnation, § 117.086(1) and is applicable only in condemnation situations, not in zoning issues. "Tract" as used in the Zoning Ordinance does not refer to more than one lot. Nothing in the City's Zoning Ordinance indicates that adjoining properties are considered together as one lot or tract. In fact, the opposite is true. This parcel was subdivided from the larger Honer property to the south in 1994 to allow the building of a residence on the property now used as the Honer residence. This subdivision was thought to be necessary as there already is a home on the property to the south, and the Code did not allow two residences on one property. If we read the City's ordinance in the manner now desired by the Honers, they would not be able to have a residence on this property as there would be two houses on what essentially would be one property. This is not how the City has interpreted its Zoning Ordinance, nor does the text of the Zoning Ordinance indicate this is how it should be interpreted.

b. The Use of the Property Is Farming.

The use of the property is residential. Section 44.04 of the Zoning Ordinance allows the keeping of animals in the AG-1 zone only on properties that are 5 acres or larger. The Honer lot is 2.09 acres in size, which is not large enough to keep farm animals. Mr. Ripple has indicated that the Honers have raised calves on this property for several years now. However, because raising farm animals is not allowed on lot smaller than 5 acres, the raising of farm animals is not a legal use and cannot qualify the property for a farm or hobby farm use. In addition, the October 20, 2025 letter to the City from Adam Ripple indicates that the Honer residence property does not contain tillable land. Staff believes that there is no legal farming activity that has occurred on the Honer residential property since it was split and the home was built on the property in the mid-1990s.

c. The Property Is Zoned Agricultural.

The property is zoned agricultural, and one of the purposes of the AG-1 district is to allow farming. However, as noted above, no farming has taken place on the Honer property and the property is too small to allow the raising of animals. The specific provisions of the AG-1 Zoning District are going to control over the general intent of the AG-1 Zoning District, and this property has not met the requirements to be classified as a farm, regardless of what the intent of the AG-1 Zoning District may be.

d. The Property Has Been used as a Farm for Generations.

The property around the Honer residence has been used as a farm for generations, and the Honer residence property may have been used as a farm prior to 1994. However, in 1994 when the Honer lot was subdivided from the larger farm property and a residence built upon it, the farm use was discontinued. For more than two decades now the Honer property has been used as a residence and as a commercial daycare. Under Minnesota law, grandfathered in rights (legal non-conforming zoning rights) expire once the legal nonconforming use has been discontinued for one year. Any farm rights this property may have enjoyed expired one year after its subdivision in 1994 and the construction of the house on the property.

e. The Building Is Part of the Farmstead.

While it is undisputed that farming uses are occurring on the property to the south, the mere proximity of this lot to the property where farming activity is occurring does not make the Honer lot a farm property that would qualify it for an accessory ag building. Likewise, the fact that the Honers own the larger farm property to the south as well as the residence lot does not make the residence lot a farm under the Zoning Ordinance. While “Farmstead” is defined in the Zoning Ordinance, that definition does not define it as a house existing on a separate lot from an adjoining farm property, nor does the Zoning Ordinance grant special privileges to a Farmstead property.

3. The Building Is an Accessory Agricultural Building.

City staff agrees that the proposed building can be an agricultural building depending on what is stored inside it, but staff disagrees that this building can be an agricultural accessory building. Per the definition of an Accessory Building, the building must be 1) a subordinate building or use; 2) located on the same lot as the principal building or use; and 3) reasonably necessary and incidental to the conduct of the primary use of such building or main use. While the Honers’ proposed building may be able to meet condition no. 1 (i.e. it is not the primary building on the property or the primary use on the property), it is not located on the same lot as the principal use (no. 2) and it is not reasonably necessary or incidental to the conduct of the primary use (no. 3). The principal use of the Honer residential lot is residential with a commercial day care also located on the lot. There is no farming activity authorized under the zoning ordinance which is occurring on the lot (it is occurring on the lot to the south), and therefore, the proposed agricultural building is not reasonably necessary and incidental to the conduct of the principal use, which is

residential. Since the use of the proposed building is not reasonably necessary and incidental to a residence, it cannot meet the definition of an accessory building on the lot on which it is being built. The Honers' argument that the City should consider the farming uses on the lot to the south as a use that can count on the residential lot directly contradicts the definition of Accessory Building which requires that the building be located on the same lot as the principal use, not on the lot next door to the principal use.

4. The Front Yard Setback Exemption Existed at the Time of Construction and the City Cannot Retroactively Apply Later Ordinance Amendments.

City staff agrees that at the time construction began, Section 15.04 of the City's Zoning Ordinance (governing Accessory Buildings) exempted accessory farm buildings from all setbacks, including the front yard setback. However, because the Honer building does not qualify as an accessory building, it was not governed by Section 15.04 and therefore must comply with the required setbacks. Because 15.04 does not apply to this building, the repeal of paragraph A of Section 15.04 does not change the applicability of the setbacks to the Honer building. City staff believes that the standard front yard setbacks in Section 45.02 of the Zoning Ordinance, requiring a setback of 35 feet from the County Highway right of way line, apply and have always applied. The repeal of Section 15.04A only affects accessory buildings, which City staff believes does not apply to this building as it cannot qualify as an accessory building.

5. The Honers Requested to Expand Their Homesite to Comply with all City Requirements.

City staff disagrees that the Honers were told that they had to increase the size of their residential lot. Mr. Honer was told that he could not construct an accessory building that was 5,400 s.f. in size because the limit for a lot that was less than 5 acres was 3,000 square feet. Mr. Honer was told that if their residential lot was enlarged to 5 acres, a 5,400 s.f. building could be placed on the residential property. The Honers applied for a lot line adjustment to move an additional 3 acres from the lot to the south into their existing residential lot and the City Administrator approved that lot line adjustment. However, the Honers never recorded the lot line adjustment, so the current foundation of 5,400 s.f. exceeds the size limit for an accessory building by 2,400 s.f. Sometime during the week of October 6th the City Administrator contacted the City Attorney's Office regarding the issue of whether this building could be constructed in the Honers' front yard. The City Administrator had indicated to Mr. Honer during that same week that the City Attorney's office was still reviewing the Honer's ability to construct a 5,400 s.f. agricultural accessory structure on their property. Mr. Honer was told at that time that he did not have approval for the building until the City Administrator could confirm with the City Attorney that the accessory building met City ordinances. The City Administrator heard back from the City Attorney on October 16, 2025 that the building could not be constructed as an accessory building and the City Administrator issued a stop work order that same day. The City Attorney's office informed Mr. Honer on October 17, 2025 via email a U.S. mail that the Honer's proposed agricultural accessory building would not qualify as an accessory agricultural building given the current residential use of the Honer property. Sometime

around November 13, 2025 the Honer's attorney inquired as to whether Mr. Honer's property could become a farm by adding an additional 8 acres to the residential property to meet the Zoning Ordinance's definition of a farm (which requires a lot 10 acres or larger). The idea behind this was that if the residential property could be classified as a farm, the agricultural building that the Honers wanted to build would then be an accessory agricultural building. Mr. Honer asked if he could apply for a lot line adjustment to increase his lot to exceed 10 acres in size. The City Administrator informed Mr. Honer that he could not apply for an increase in lot size until he recorded the deed from the previous lot combination that increased the Honer lot to 5 acres. However, even if the Honers were allowed to increase the residential lot to 10 acres, Section 15.04 of the Zoning Ordinance, no longer exempted agricultural buildings from the setback requirements (paragraph A of Section 15.04 which exempted all farm buildings from the setback requirements was repealed effective October 8, 2025), so the Honer building would not be allowed to remain where its concrete slab is currently located as it is closer than the front yard setback of 35 feet from the County right of way.

6. The Honers Diligently Tried to Follow the City's Directions and Acted in Good Faith.

City staff does not believe that the Honers acted in bad faith. However, the Honers insisted on proceeding with construction of the building despite being told that the City is still waiting for an opinion from the City Attorney on whether the Honers can build their proposed building as an accessory building in its current location. Staff believes that the Honers assumed the risk that the City Attorney might conclude that the Honers building would not be allowed to be constructed as proposed by the Honers, which by October 16, 2025 turned out to be the case. Had the Honers waited for approval from the City before constructing the building, the Honers would have expended nothing more than survey costs before discovering that they could not construct their proposed accessory building on this lot as planned. Under Minnesota law, all residents are charged with knowing the requirements of the City's Zoning Ordinance, and only the City Council has the power to change the Zoning Ordinance. The City Administrator/Zoning Administrator does not have the authority to change or waive provisions of the City's Zoning Ordinance, and none of his actions purported to change or wave the provisions of the Zoning Ordinance.

7. The Honers Relied on Direct Representations from City Officials.

The City building inspector initially believed that a building permit was required for the proposed Honer building. However, upon learning that it would only be used to store farm equipment, the building inspector agreed that a building permit for the proposed Honer building was not required under the building code. At the time Mr. Honer met with the City Administrator regarding the construction of the proposed building, the front yard setback did not apply to an agricultural accessory building. However, initially, the City Administrator believed that the building was going to be built in the back yard as the drawing that was submitted to him by Mr. Honer did not show where the road was located in relation to the building. At no time did the City Administrator indicate that the Honers should remove trees in the area designated as the front yard setback as the City Administrator thought the building was going to be located in the back yard, not the front

yard. Mr. Honer was advised by the City Administrator to wait until the City heard back from the City Attorney's Office as to whether the building was permitted on the property before he began construction of the building. Mr. Honer chose not to wait, and proceeded to pour the concrete and erect the posts either without waiting for the City Attorney's conclusion or the Honers continued to work even after the City Attorney's office informed him that his proposed building did not qualify as an accessory building on the residential lot. Ultimately, the City issued a stop work order.

While Mr. Honer appears to be appealing any decision of the Zoning Administrator that would not allow the proposed building to be constructed, it appears to the City Attorney that in order to grant Mr. Honer the right to finish constructing the building in its current location, the Council will need to find at least three things:

1. That the proposed building is reasonably necessary and incidental to the conduct of the primary use of the Honers' residential lot.
2. That construction of the proposed 5,400 s.f. building was legally begun as a 5,400 s.f. building despite the fact that the Honer property that the building is located on cannot have an accessory building exceeding more than 3,000 s.f. while the property is under 5 acres in size;
3. That the Honer building was grandfathered in under the provisions of Section 15.04, paragraph A of the Zoning Ordinance as an accessory building such that none the zoning ordinance setbacks of section 45.02 of the Zoning Ordinance apply to the proposed building.

City staff is not opposed to the concept of allowing the Honers to take steps to preserve the cement slab that is in the ground from damage that may occur over the winter, but exactly what those actions are would first need to be known and the Honers would need to acknowledge in writing that any preservation actions are taken at their own risk as that concrete slab would not be allowed to stay if the City Council does not reverse the decisions of the Zoning Administrator, Honer's appeal the City's decision to the Minnesota Courts and are not successful in that action.



RINKE NOONAN
attorneys at law

November 26, 2025

Direct Dial: 320-257-3868
Aripple@RinkeNoonan.com

Bill McCabe
City of St. Augusta
1914 – 250th Street
St. Augusta, MN 56301
SENT VIA EMAIL ONLY TO:
bmccabe@staugustamn.gov

Mark Allseits and Mike Couri
Couri & Ruppe, P.L.L.P.
705 Central Avenue East
P.O. Box 369
St. Michael, MN 56376-0369
SENT VIA EMAIL ONLY TO:
mark@couriruppe.com AND
mike@couriruppe.com

Re: APPEAL -- 21998 County Road 7, St. Augusta
Our File No. 33441-0001

Dear Mayor and Members of the City Council:

On behalf of James and Janel Honer (the “Honers”), we hereby submit this appeal pursuant to Section 8 of the City of St. Augusta Code from the “Notice of Zoning and Building Code Violation and Enforcement of Stop Work Order” dated October 17, 2025, issued through the City’s legal counsel related to the accessory agricultural building under construction on the Honer’s property. Since that letter, the City’s reasons for issuing the Stop Work Order have changed with no formal written documentation. The Honers appeal and contest any and all written or unwritten basis for the issuance of the City’s Stop Work Order. This letter augments the previous letter submitted by our office on October 22, 2025, and attempts to address the City’s ever-changing rationale and procedural irregularities. The Stop Work Order asserts that the accessory agricultural building under construction does not qualify as an agricultural building and therefore violates the building code. The Stop Work Order goes on to incorrectly state that because building is not an agricultural building and because the property is residential, the building violates setbacks. For the reasons stated below, the Honers respectfully request that the City vacate the Stop Work Order, determine that the building is a lawful agricultural accessory structure, and acknowledge that the Honers acted in good-faith reliance on the City’s representations and the ordinance language in effect at the time they commenced construction.

1. The Building Is an Agricultural Building.

The City’s notice asserts that the structure “cannot be classified as an agricultural building,” relying on a narrow view of the property and ignoring the long-standing agricultural use of the

Suite 300 US Bank Plaza
1015 W. St. Germain St.
P.O. Box 1497
St. Cloud, MN 56302
320.251.6700

www.rinkenoonan.com

Letter to City supplementing appeal 4926-9694-2204 v.1
11/26/2025 1:54 PM

site. This conclusion is inconsistent with both the City Code and the Minnesota State Building Code.

The accessory agricultural building is located on agricultural land. The accessory agricultural building is intended to house and store agricultural equipment used in active farming activities conducted on the Honers' farm. The agricultural activity is not hypothetical or de minimis. The Honers regularly engage in raising livestock, haying, crop production, and equipment operation across the entire connected farm. The structure is designed and intended solely for agricultural purposes, not for residential amenities, storage, or commercial purposes.

Because the accessory agricultural building is agricultural in both purpose and function, it qualifies as an agricultural building under both the City's own definition and under Minnesota Statutes §326B.103, subd. 3.

2. The Property Must Be Considered a "Farm" Under the City Code.

Section 2 of the City Code defines "farm," "farmstead," "farming," "agricultural use," "agricultural building" and related terms. The City's interpretation that the Honer Property is not a farm, is not agricultural land, and that what the Honers do is not farming or agricultural use improperly isolates the Honers' home parcel from the surrounding, contiguous farmland and uses the existence of a house to ignore the other uses of the property. This is inconsistent with the ordinance text, agricultural law principles, and the actual, decades-long agricultural use of the combined tracts.

a. "Tract" Must Be Interpreted to Include Contiguous Lands Under Common Ownership and Use.

City Code Section 2 uses the term "tract," not "tax parcel," "lot," or "PID" in the definition of "Farm." The term "tract" is a well-understood land-use term referring to a contiguous area of land under common ownership or use, not restricted to a single tax parcel. The City Code does not define "tract," so it must be construed in accordance with ordinary legal usage and common understanding.

Under Minnesota case law, "tract" is a functional unit of land defined by unity of ownership and use. It may consist of multiple tax parcels, and parcel boundaries are not dispositive of whether land is one "tract." It regularly means a connected expanse of land used as a single operation, especially in agricultural contexts. The Honers' contiguous acreage—historically and currently used as one farmstead—falls squarely within that meaning.

b. The Use of the Property Is Farming.

The Honers have farmed on their home property including the raising of calves, pigs, turkeys, chickens and pheasants. The farm use extends across the Honers' contiguous 279.3 acres. Livestock, haying, crop operations, and the operation of agricultural equipment cross parcel boundaries routinely and form part of the same farming operation. Ignoring what happens outside of the boundaries of the Honers' home parcel is arbitrary.

c. The Property Is Zoned Agricultural.

The Honers' property, like much of the City, is zoned A-1, General Agriculture District. The stated purpose of the district is to "preserve, promote, maintain, and enhance the use of land for commercial agricultural purposes. The City's interpretation that the Honers' Property is not a farm and that what the Honers do is not farming, runs contrary to the purpose of the A-1 zoning district.

d. The Property Has Been used as a Farm for Generations.

While the Honers' acquired the property from Janel's parents in 1994, the land has been used as a farm for many decades, extending back to the Honers family's prior generations, including Janel Honer's family farming operations. To now contend that a single portion of a long-standing farmstead is "residential" because of an administrative parcel boundary severs the historical and functional unity of the farm in a way the ordinance never contemplated.

e. The Building Is Part of the Farmstead.

The accessory agricultural building under construction is part of the farm and within the farmstead area. Agricultural operations—including raising livestock, equipment movement, haying, and crop management—have always occurred as part of the larger farm that includes the Honer's farmstead. The accessory agricultural building is intended to serve those uses and is part of the farm's operational footprint.

For these reasons, the entire connected property constitutes a "farm," and the building therefore qualifies as an accessory agricultural building under City Code. It is a longstanding principle in Minnesota that vague ordinances must be construed against the government and in favor of the property owner. To the extent that the City's Code, when viewed comprehensively, is vague and confusing, it must be construed in favor of the Honers.

3. The Building Is an Accessory Agricultural Building.

The City asserts that agricultural accessory structures are allowed only when "necessary and incidental" to the primary use of the property, which in the Honers' case the City has characterized as "residential." This analysis ignores:

- the unified agricultural use of the contiguous lands that make up the farm;
- the fact that the Code does not restrict accessory agricultural buildings solely to parcels that contain no other uses;
- the principle that *accessory use follows the dominant use of the whole tract*, not the artificial subset of a single parcel within 279 contiguous acres; and
- decades of actual agricultural use on the whole tract of the Honers' property.

The accessory agricultural building is entirely agricultural in purpose, necessary for the storage and maintenance of equipment used in ongoing farming operations. It is therefore “reasonably necessary and incidental” to the primary agricultural use of the farm.

4. The Front Yard Setback Exemption Existed at the Time of Construction and the City Cannot Retroactively Apply Later Ordinance Amendments.

At the time the Honers began construction, Section 15 included an express exemption to the setback requirements for accessory agricultural buildings. Only later did the City amend Section 15 to remove that exemption. The Minnesota Supreme Court has long held that zoning amendments cannot be retroactively applied to ongoing projects when the owner has engaged in good-faith reliance on existing law, especially when the City expressly approves or leads the owner into compliance efforts. Because construction began while the exemption was still active, and because the Honers relied on City representations that the front setback requirement did not apply to accessory agricultural buildings, the City cannot now apply the amended version of Section 15.

5. The Honers Requested to Expand Their Homesite to Comply with all City Requirements.

Prior to the ordinance change, the Honers were told they needed to enlarge the parcel that contained their home in order to construct the accessory agricultural building and were instructed to increase it to 5 acres. They paid for a survey and were granted a certificate of compliance for the increase in size. After they started construction, they were told that they had to increase the home parcel to 10 acres in order to fall within the exemption of Chapter 15. The Honers asked the City Administrator what was necessary to achieve the increase to 10 acres and he stated that he would refuse to process such a request. In the meantime, the City amended Chapter 15 to remove the exemption. It is inequitable for the City to deny the Honers the ability to enlarge the homesite, change the ordinance, and then cite the size of the homesite parcel as a basis for the stop work order.

6. The Honers Diligently Tried to Follow the City’s Directions and Acted in Good Faith.

Before and during construction, the Honers repeatedly sought guidance from City officials and acted exactly as they were told to by representatives of the City:

- They obtained a survey and certificate of compliance at the City’s direction for an increase of their home parcel to 5 acres;
- They applied for a building permit even after being told a permit was not required;
- They complied with a foundation inspection even though agricultural buildings are exempt;
- They sought to increase their home parcel to 10 acres when they were told that was necessary, only to be told that the City Administrator refuses to process such a request;
- At the direction of the City, they submitted a variance request under protest, which was denied based on very little discussion of the Planning Commission and no discussion by the City Council; and

- Each step was taken in reliance on City statements during meetings, discussions, and site inspections.

A property owner cannot be punished for attempting in good faith to follow inconsistent or changing instructions from the City.

7. The Honers Relied on Direct Representations from City Officials.

Throughout the process, City representatives made specific, affirmative statements upon which the Honers reasonably relied, including:

- that a permit was not required for agricultural buildings;
- that the building would qualify as agricultural;
- that the front yard setback requirement did not apply to accessory agricultural buildings; and
- that the Honers should remove trees in the area designated as the front yard setback.

Reliance on municipal representations is a recognized basis for estoppel against enforcement when:

1. The City made representations or induced reliance;
2. The property owner reasonably relied on those representations;
3. The property owner would suffer hardship if estoppel is not applied; and
4. Application of estoppel would not unduly harm public interests.

All four elements are satisfied here. Of particular note, the Honers were open and transparent with the City about what they were doing. The City waited an extended period of time until after the Honers paid significant funds and undertook significant irreversible work before issuing the Stop Work Order.

8. Need to Protect Investment During Dispute.

The Honers intend to exhaust all potential remedies in contesting the City's Stop Work Order. Prior to the issuance of the Stop Work Order they paid \$125,000 toward the construction of the accessory agricultural building, including nearly \$55,000 for the cement work inside the accessory agricultural building. That cement is designed for interior applications. The Honers need to perform additional work to protect that concrete from the weather otherwise it may be a total loss. Although it is not clear what that protective work might entail, the Honers request that the City accommodate that protective work during the pendency of this dispute without considering it violations of the Stop Work Order. The Honers will provide details of the protective work once their contractor is able to share that with them.

November 26, 2025

Page 6

Conclusion and Requested Relief

For all the reasons stated above, the City's Notice of Violation and Stop Work Order are improper and should be reversed. The Honers request that the City:

1. Vacate the Stop Work Order;
2. Recognize the building as an agricultural accessory structure pursuant to Section 2 and Section 15;
3. Acknowledge that the property, when interpreted as a contiguous tract, is a "farm" under the ordinance;
4. Apply the version of Section 15 in effect at the time construction began, including the agricultural setback exemption;
5. Recognize the Honers' good-faith reliance on City representations; and
6. Permit construction of the building to continue.

The Honers respectfully request a hearing under Section 8 and an opportunity to present testimony, evidence, and historical records confirming the agricultural use and long-standing farmstead character of the property.

Sincerely,

/s/ Adam A. Ripple

Adam A. Ripple

AAR/mjr

cc: James and Janel Honer (via email)



October 23, 2025

Direct Dial: 320-257-3868
Aripple@RinkeNoonan.com

Bill McCabe
City of St. Augusta
1914 – 250th Street
St. Augusta, MN 56301
SENT VIA U.S. MAIL AND EMAIL TO:
bmccabe@staugustamn.gov

Mike Couri
Couri & Ruppe, P.L.L.P.
705 Central Avenue East
P.O. Box 369
St. Michael, MN 56376-0369
SENT VIA EMAIL ONLY TO:
mike@couriruppe.com

Re: 21998 County Road 7, St. Augusta
Our File No. 33441-0001

Dear City of St. Augusta:

Our office represents Jim Honer with respect to his property at 21998 County Road 7 in St. Augusta. On October 20, 2025, we filed an objection, appeal, and data practice request with the City of St. Augusta in response to an October 16, 2025, stop work order and letter dated October 17, 2025, from the City's attorney. Without withdrawing or waiving any of our filings from October 20, 2025, we submit this variance application under protest in an effort to resolve the matter.

1. Background.

The Honers own hundreds of acres of farmland in St. Augusta that they actively farm. They own a 2-acre parcel at 21998 County Road 7 in St. Augusta (PID 81.43155.0405) where their home is located. This homestead parcel is contiguous to their farmland. The parcel is zoned A-1 Agricultural under the City's zoning code and is classified as Class 2a Agricultural Homestead by Stearns County. The Honers have obtained a certificate of compliance from St. Augusta to enlarge the homestead property to five acres, and they are in the process of recording that expansion.

2. Nature of the Request.

It is our understanding that the City has determined that because the home is a "residential use" (despite it being the farmstead and classified as Ag Homestead) and the agricultural building under construction is an "agricultural use," the agricultural building is not "considered necessary or incidental to the primary residential use" (October 17, 2025, letter from City Attorney). The

Suite 300 US Bank Plaza
1015 W. St. Germain St.
P.O. Box 1497
St. Cloud, MN 56302
320.251.6700

www.rinkenoonan.com

tmpF026
10/23/2025 8:47 AM

Honers request a variance from certain provisions of the City of St. Augusta Zoning Ordinance to allow construction of an agricultural accessory structure on agriculturally zoned property where a residential dwelling already exists. The proposed agricultural building is intended solely for agricultural use, including storage of agricultural equipment, materials, and supplies used in ongoing agricultural operations conducted on the property and contiguous parcels under the same ownership.

3. Description of the Proposed Structure.

The Honers are constructing a post-frame agricultural storage building, 60' x 96' with 14' sidewalls, and a peak height of 24' 7". The building will be used for agricultural purposes, primarily the storage of agricultural implements and equipment.

4. Justification.

The property is zoned A-1 Agricultural and is part of a larger contiguous farm several hundred acres in size. The parcel also contains an existing single-family dwelling, which is a permitted use in the A-1 District. The Honers seeks to construct an agricultural building that supports bona fide agricultural operations on the property and surrounding contiguous farm parcels. Because the Honer farm is split into multiple parcels and the homestead is located on a separate 2-acre parcel, strict enforcement of the zoning ordinance would unreasonably prevent the Honers from constructing the agricultural building in a functional and safe location close to their home.

5. Variance Criteria (Minn. Stat. § 462.357, Subd. 6).

Pursuant to Minnesota law, a variance may be granted if the applicant demonstrates "practical difficulties" in complying with the ordinance. The following standards are met:

A. The variance is in harmony with the general purposes and intent of the ordinance and comprehensive plan.

The proposed agricultural building is consistent with the City's goal of preserving and supporting agricultural uses within the A-1 District. The structure will enhance the productivity and viability of agricultural operations without altering the character of the area.

B. The property owner proposes to use the property in a reasonable manner not permitted by the ordinance.

The use of an agricultural building on agriculturally zoned land is a permitted use and inherently reasonable. The only limitation arises from the City's ordinance interpretation that the agricultural building is an accessory structure, and the use of the accessory structure has to be the same as the house, which creates unnecessary hardship given that the property is part of a larger contiguous farm.

C. The practical difficulty is due to circumstances unique to the property, not created by the landowner.

The unique configuration of the larger farm—containing an existing residence on a separate small parcel—limits feasible locations for an agricultural building that is within a reasonable

proximity to the farmstead. The variance is needed to make reasonable use of the property consistent with its zoning and long-standing existence as part of a larger farm.

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

The surrounding properties are rural and agricultural in nature. The proposed structure will be visually consistent with other agricultural outbuildings (which are similarly exempt from most setback requirements) in the area and will not adversely affect neighboring properties.

E. The need for the variance is not based solely on economic considerations.

The request arises from zoning constraints, not from financial hardship. Just like other farms in the area, the Honers need to have the agricultural building within close proximity to their farmstead.

6. Variance Criteria (Section 3.02B, St. Augusta Code).

In addition to Minnesota law, the City's Zoning Ordinance, provides standards for variance requests, which are met.

In considering all requests for a variance and in taking subsequent action, the City staff, the Planning Commission, and the City Council shall make a finding of fact that the proposed action will not:

1. *Impair an adequate supply of light and air to adjacent property.* The agricultural building is of typical size and height and there are no nearby properties, so there will be no impact to light and air for neighbors.
2. *Unreasonably increases the congestion in the public street.* There will be no increase in congestion. The equipment that will be stored in the agricultural building already exists and is in use. Also, the equipment may leave the property using internal field roads.
3. *Increase the danger of fire or endanger public safety.* There will be no increase in fire or safety concerns. Locating the agricultural building closer to the home, allows the Honer to keep a closer eye in it and react quicker in the event of a fire.
4. *Unreasonably diminish or impair established property values within the neighborhood or in any way contrary to this Ordinance's intent.* The area is zoned agricultural. Adding another agricultural building in the neighborhood, which is a permitted use, will not diminish property values.
5. *Violate the intent and purpose of the Comprehensive Plan.* The area is zoned agricultural and agricultural building is a permitted use. Allowing the agricultural building is consistent with the comprehensive plan.
6. *Violate any of the terms or conditions of Item 2 below.*

A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

1. *Undue Practical difficulty will result if the variance is denied due to the existence of special conditions and circumstances that are peculiar to the land, structure, or building involved:*

(a) *Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area, or property shape.* As explained above, the unique configuration of the larger farm—containing an existing residence on a separate small parcel—limits feasible locations for an agricultural building that is within a reasonable proximity to the farmstead. The only limitation arises from the City’s ordinance interpretation that the agricultural building is an accessory structure, and the use of the accessory structure has to be the same as the house, which creates unnecessary hardship given that the property is part of a larger contiguous farm.

(b) *Undue hardship caused by the special conditions and circumstances may not be solely economic if a reasonable use of the property exists under the terms of this Ordinance.* The agricultural building is a permitted use on the property. Like all farmers, the Honers need to have the agricultural building within close proximity to their farmstead. The request arises from zoning constraints, not from financial hardship.

(c) *Special conditions and circumstances causing undue hardship shall not result from lot size or building location when the lot qualifies as a buildable parcel.* The request arises from zoning constraints and the configuration of the farm, not size or location of the property.

2. *Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicant the ability to put the property in question to reasonable use.* Literal interpretation of the ordinance will prevent the Honers from having an agricultural building within close proximity to their farmstead, which is commonly enjoyed by other farms.

3. *The special conditions and circumstances causing the undue hardship do not result from the applicant’s actions.* The request arises from zoning constraints and the configuration of the farm, not the actions of the Honers.

4. *Granting the variance requested will not confer on the applicant any special privilege denied by this Ordinance to other lands, structures, or buildings in the same district.* Granting the variance will allow the Honers to enjoy the same rights as those commonly enjoyed by other farms.

5. *The request is not a use variance.* Agricultural buildings are permitted uses on agriculturally zoned property.

6. *Variance requested is the minimum variance necessary to accomplish the applicant’s intended purpose.* This variance request is not a dimensional variance.

October 23, 2025

Page 5

I respectfully request emailed copies of any staff report or written comments received by the City with respect to this request as soon as they are available.

Sincerely,

/s/ Adam A. Ripple

Adam A. Ripple

AAR/mjr

cc: Jim Honer (via email)



RINKE NOONAN
attorneys at law

October 20, 2025

Direct Dial: 320-257-3868
Aripple@RinkeNoonan.com

Bill McCabe
City of St. Augusta
1914 – 250th Street
St. Augusta, MN 56301
SENT VIA U.S. MAIL AND EMAIL TO:
bmcabeb@staugustamn.gov

Mark Allseits
Couri & Ruppe, P.L.L.P.
705 Central Avenue East
P.O. Box 369
St. Michael, MN 56376-0369
SENT VIA EMAIL ONLY TO:
mark@couriruppe.com

Re: Objection to Stop Work Order – 21998 County Road 7, St. Augusta
Our File No. 33441-0001

Dear City of St. Augusta:

Our office represents Jim Honer with respect to his property at 21998 County Road 7 in St. Augusta. I am writing on his behalf to formally object to the Stop Work Order posted on the above-referenced property on October 16, 2025, and to respond to your letter dated October 17, 2025. The City's position that the structure under construction is not an agricultural building is incorrect, inconsistent with prior approvals, and unfair to Mr. Honer who has acted transparently, in good faith, and in reliance on the conduct of the City of St. Augusta throughout this process. For the City to wait until after Mr. Honer cut trees, excavated a pad, erected framing, and poured concrete before issuing this stop work order is inexcusable.

TIMELINE

First, it is important to understand the timeline of events in order to have context about what is going on here.

- In the first week of September 2025, Mr. Honer contacted Mr. McCabe about building a shed. Mr. McCabe indicated that in order to avoid a size limitation on an accessory structure, the Honer home parcel needed to be five acres in size.
- On September 26, 2025, Mr. Honer submitted a certificate of survey prepared by O'Malley & Kron for a 5-acre homestead parcel. Mr. Honer also submitted a complete building permit for his accessory structure. At the same time Mr. Honer confirmed with Mr. McCabe that all things were in order before Mr. Honer cut down trees in his front

Suite 300 US Bank Plaza
1015 W. St. Germain St.
P.O. Box 1497
St. Cloud, MN 56302
320.251.6700

www.rinkenoonan.com

tmpB085
10/20/2025 9:49 AM

yard. Mr. McCabe assured Mr. Honer that everything was good and told him he could remove his trees.

- On October 1, 2025, Mr. Honer contacted Mayor Schmitz and asked if he could begin excavation before a professional engineer signed off, and Mayor Schmitz gave approval as long as setbacks were met. That evening the excavator removed existing concrete.
- On October 2, 2025, the excavator completed the pad site for the shed.
- On October 6, 2025, Mr. McCabe contacted Mr. Honer stating the City had received a complaint about the accessory being constructed in the front yard. Mr. Honer explained that is what the building permit showed and that contractors had already been hired and the rest of the work was scheduled to begin later in the week.
- On October 7, 2025, Mr. Honer met with Mayor Schmitz, Mr. McCabe, Building Inspector Mike Wallen. It was determined that Mr. Honer could build an agricultural accessory structure without a building permit, so long as the structure was not attached to any existing building. It was also stated that the agricultural accessory building was exempt from setbacks and front yard restrictions. Later that day, Mr. McCabe called Mr. Honer several times. First, stating that Mr. McCabe spoke with the Assistant City Attorney and questioned whether the building could proceed, and later stating that it could proceed but that Mr. McCabe wanted the City Attorney to weigh in. Mr. McCabe said he would call Mr. Honer by noon the next day.
- On October 8, 2025, having not heard back from Mr. McCabe, Mr. Honer called City Hall because contractors were going to begin work. Mr. McCabe did not provide any clarifications and hung up on Mr. Honer. Mr. Honer then contacted Mayor Schmitz. At no point did anyone tell Mr. Honer he should not proceed.
- On October 10, 2025, Building Inspector Wallen visited the construction site and issued a passing footing inspection.
- On October 14, 2025, Mr. Honer called Building Inspector Wallen for an in-floor heat inspection. Building Inspector Wallen apologized for the prior footing inspection and stated that the building did not require any inspections because it was exempt as an agricultural building. Building Inspector Wallen informed Mr. Honer that the project was fine to proceed.
- On the morning of October 16, 2025, after the structure had been framed, concrete was poured inside the agricultural accessory structure. Later that afternoon, Mr. McCabe called Mr. Honer to inform him that a Stop Work Order was going to be issued and that Mr. McCabe would be seeking a change to the zoning ordinance.
- On October 17, 2025, a letter from the City's Attorney was sent to Mr. Honer reversing course yet again and claiming the building does not qualify as agricultural.

MISAPPLICATION OF THE LAW

The City's most recent position is both factually and legally incorrect. The October 17, 2025, letter makes a blanket, unsupported conclusion that the homestead parcel (no. 81.43155.0405) is residential, so an agricultural building is not permitted. First, Stearns County has classified the property as 2a Agricultural. Second, while the homestead parcel does not contain tillable land, agricultural equipment is stored on the Property and that is also the intended purpose of the agricultural accessory building under construction. This meets the "agricultural purposes" definition of 2713.13, Subd. 23. The agricultural building currently under construction meets the definition of "agricultural building" under Minnesota Statute § 326B.121.

Next, the City misapplies the 10-acre requirement of Minnesota Statute § 273.13. It appears the City believes that the homestead parcel must be ten acres in order to be considered "agricultural land." The City ignores the key term "contiguous" in the statute. The contiguous land significantly exceeds ten acres and is used for agricultural purposes. (See *Minn. Dep't of Revenue Property Tax Administrator's Manual – Agricultural Classification (rev. 2023)*, which confirms that contiguous parcels under the same ownership are aggregated for acreage purposes.)

Accordingly, both the *use* and *size* criteria under the cited statutes are satisfied. The City's conclusion that the Property is not agricultural property and is too small rests on an inaccurate reading of the statute and a misunderstanding of how contiguous acreage is measured under Minnesota law. It is also based on faulty facts. The Legislature's intent is clear: when contiguous parcels are under common ownership and devoted to agricultural use, the combined acreage meets the statutory requirement. The City's attempt to treat each tax parcel as independent for this purpose has no support in either statute or relevant administrative guidance.

Mr. Honer has, from the very outset, made every effort to comply with City requirements—submitting applications, modifying plans at the City's request, and seeking clarification and approval at each stage. The assertion that the building is not agricultural ignores the law, it ignores the City's prior acknowledgment of its exempt status, and it ignores the inspector's own admission that no inspections were required. To now issue a Stop Work Order contradicts that record and undermines principles of fairness and due process. This abrupt reversal—after footings are installed, framing erected, and concrete poured—without any new factual or legal basis—suggests arbitrary decision-making and imposes unjust hardship on the property owner. This concern is underscored by Mr. McCabe's statement to Mr. Honer regarding the City's intent to 'fix the ordinance,' suggesting the City's current actions are driven by dissatisfaction with the lawful actions of Mr. Honer under the current ordinance as written rather than the application of existing law.

APPEAL

To the extent that the October 17, 2025, letter is an "opinion," "evaluation," "ruling," or decision for purposes of Section 8 of the City zoning ordinance, please consider this letter an appeal. If a fee is required, please notify me immediately.

October 20, 2025

Page 4

DATA PRACTICE REQUEST

The erratic and inconsistent treatment of Mr. Honer by the City suggests there is something driving this beyond ordinary zoning or building permit issues. Pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, I request that the following information and records of the City of St. Augusta be made available by email to me at the email address listed above:

1. Copies of all materials provided to the City by Mr. Honer in the past six (6) months related to the property at 21998 County Road 7, St. Augusta;
2. Any and all communications, including letters, emails, text messages, voicemail messages, and messages from an internal instant messaging service, held by the City of St. Augusta, its agents, employees, and independent contractors relating to, regarding, or referring to the property at 21998 County Road 7, St. Augusta or Mr. Honer;
3. Copies of any communications to or from 3rd parties regarding the property at 21998 County Road 7, St. Augusta or Mr. Honer; and
4. Any and all memorandums, documents, or other information related to the property at 21998 County Road 7, St. Augusta or Mr. Honer held by the City of St. Augusta, its agents, employees, and independent contractors.

The terms “relating to,” “regarding,” and “referring to” shall mean directly or indirectly, mentioning, describing, pertaining to, consisting of, evidencing, commenting on, discussing, or being in any way legally, logically, or factually connected with the subject matter.

Pursuant to the statute, we will pay all reasonable costs, including the reasonable costs for copies; however, to save on time and copying costs, the documents may be provided to me electronically through email, USB, or other file storage device, or through a file transfer protocol which my firm, Rinke Noonan, will provide upon your request. Please contact me as soon as possible if you anticipate these costs will exceed fifty dollars (\$50.00).

If it is determined that any requested record or portion thereof will not be disclosed, please provide me with the nonexempt records and with the nonexempt portions of the remaining records. If any requested records or portion thereof is not disclosed, please provide me with an index and a detailed description of each record or portion thereof not disclosed and a statement describing the statutory basis for not disclosing each record or portion thereof.

If this request should be addressed somewhere else, please let me know immediately. Otherwise, I will assume that the request has been filed and accepted by the City of St. Augusta. Please provide the requested information as soon as possible, but no later than 10 days since Mr. Honer is the subject of the data. I anticipate the information would be available no later than **October 30, 2025**. If this request presents a problem, please contact me to discuss alternative methods of collecting this information promptly.

October 20, 2025

Page 5

CONCLUSION

We respectfully request that the City:

1. Immediately rescind the Stop Work Order issued on October 16, 2025;
2. Reaffirm in writing the agricultural exemption previously recognized; and
3. Confirm in writing that construction may proceed, consistent with the approved agricultural use.

The City's repeated reversals—approving, rescinding, re-approving, and now stopping work—violate basic principles of administrative due process and equitable reliance. Mr. Honer acted in reliance on the City's representations and approvals, expending substantial resources in good faith. Despite all that, Mr. Honer remains willing to cooperate fully and provide any additional information and take reasonable additional actions necessary to resolve this matter promptly and amicably. We would prefer to meet and talk through this rather than fire letters back and forth. Due to Mr. Honer's construction contracts, time is of the essence, and we request a meeting as soon as possible.

Sincerely,

/s/ Adam A. Ripple

Adam A. Ripple

AAR/mjr

cc: Jim Honer (via email)