

**SHERBURNE COUNTY
BOARD OF ADJUSTMENT
MINUTES
MAY 14, 2020**

Chairperson Johnson called the meeting to order at 6:04 P.M.

Chairperson Johnson was present at the meeting. Other members of the board were present virtually through WebEx.

Roll call was taken.

Members Present:

Roger Johnson – Chairperson
Bryan Lawrence
Annie Deckert
Roger Nelson
Lynda Ponting
Bud Stimmler

Staff Present:

Lynn Waytashek – Assistant Planning & Zoning Administrator
Mitch Glines – County Planner
Addison March – County Planner
Kelly Mittelstaedt – Secretary
Adam McAlister – IT

Lawrence made a motion to approve the minutes from the March 12, 2020 Board of Adjustment Meeting. Ponting seconded the motion. All in favor. Motion passed.

Lawrence made a motion to approve the evening's agenda. Nelson seconded the motion. All in favor. Motion passed.

6:08 P.M. BRADLEY & DEBORAH FEERO: Requesting a 5' variance in setback from the side property line for an attached garage and sunroom on existing deck. Required setback is 10'. Address: 28318 139th St NW, Zimmerman, Mn Legal: Cool Spring Acres Lot 4, Blk 1 & Vac Pt of Cool Spring Road lying adj to Sec 31, Twp 35, Rge 26 .29 Acres General Rural District and within the General Development Lakeshore District of Little Elk Lake.

BRADLEY & DEBORAH FEERO: Requesting a 4' variance in setback from the side property line for an attached garage and sunroom on existing deck. Required setback is 10'. Address: 28318 139th St NW, Zimmerman, Mn Legal: Cool Spring Acres Lot 4, Blk 1 & Vac Pt of Cool Spring Road lying adj to Sec 31, Twp 35, Rge 26 .29 Acres General Rural District and within the General Development Lakeshore District of Little Elk Lake.

BRADLEY & DEBORAH FEERO: Requesting a 60' variance in setback from the right of way of 139th St NW for an attached garage and sunroom on existing deck. Required setback from the right of way is 67'. Address: 28318 139th St NW, Zimmerman, Mn Legal: Cool Spring Acres Lot 4, Blk 1 & Vac Pt of Cool Spring Road lying adj to Sec 31, Twp 35, Rge 26 .29 Acres General Rural District and within the General Development Lakeshore District of Little Elk Lake.

Johnson read the variance requests.

Glines explained the applicant is requesting to add a 900 sq ft attached garage onto a legal non-conforming structure and add a screen porch onto an existing deck. They are proposing to remove impervious surface to stay under the maximum allowed of 25%. They have two structures that would be removed. One is a 288 sq ft detached garage and a 100 sq ft shed.

Bradley Feero, 28318 139th St NW, Zimmerman, Mn was present.

Mr. Feero explained the new garage would basically be in the same area as his current garage and shed. The 4 - season porch will be built on the existing deck.

Deckert asked if the garage could still be built to meet the side yard setback.

Glines said there would be the possibility to shrink the garage size, but the garage would still need a side yard setback because the house does not meet the current 10' side setback.

Mr. Feero said the south side variance is for the existing corner of the house.

Ponting asked how far the corner of the house is currently to the south side setback.

Mr. Feero said it was 4'.

Glines said per the survey the existing house is 6.99' from the south property line and 9.62' from the north property line.

Johnson asked if the porch would be placed on the deck at the exact size the deck currently is.

Mr. Feero said it will be the exact same size.

Johnson suggested the deck be inspected first because it looks like it leans toward the lake and he wants to make sure the footings are adequate.

Mr. Feero said they will be reconstructing the deck and it will have new footings.

Deckert asked what exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district.

Mr. Feero said most houses on the road are within 5' of then north/south property line. Most garages in the area are in the same location on the road. Next door neighbor has a newer garage. His garage will not be any different than others in the neighborhood and will actually clean up the neighborhood.

Deckert said she understands the request, but the boards role is to protect current owners and future owners to not enhancing any non-conformities. She will not be able to support the variance request.

Johnson opened the public hearing and then closed the public hearing since there was no public comment. Nothing written was submitted either.

Lawrence motioned and Nelson seconded the motion to approve the 5' variance in setback from the side property line for an attached garage and sunroom on existing deck with the following conditions and "Findings of Fact":

Lawrence said Baldwin Township has reviewed the request several times over the last 6 months.

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. Must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
3. The existing detached garage and shed must be removed from the property prior to a building permit being issued from the Zoning Department.
4. Area that will not be disturbed for construction must be tilled to a depth of 6" and seeded or sodded prior to building permit being issued. Buildings must be disposed of in a MPCA landfill and cannot be burned or buried on site.

5. The applicant must install erosion control around perimeter of project prior to any construction activity to minimize construction run-off. Erosion control must remain in place until vegetation is re-established.
6. A new septic tank must be installed and meet required setbacks to the proposed garage and lot line which is 10ft.
7. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
8. Because the improvements will result in the property reaching the maximum allowed impervious surface, no additional impervious surface (other than what is shown on the Applicant's certificate of survey dated March 4, 2020) may be added to the property in the future without first removing existing impervious surface so that the property does not exceed the 25% impervious surface limitation.
9. Must follow Stormwater Plan (Packet Attachment G) and install gutters were proposed and dry creek beds where proposed on the lot.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
It will not be in conflict with the comprehensive plan because it will remain a residence home as the rest of the homes in the area.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () There are extraordinary circumstances due to the fact of the narrow lake lot which we see much of in Sherburne County. The house was built prior to these owners. The placement of the house on the lot. The size of the lot already put the house in a non-conformity.
3. The 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. Yes (X) No () In this particular circumstance due to the improvement the owner is proposing to make. None of the improvements trigger the necessity of the variance. The necessity of the variance exists prior to the variance request.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No () It did not result from this owner or previous owners. This lot was established prior to zoning.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This is the minimum requested variance.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () Granting

this variance will not alter the surrounding character in any way, shape or form. It will remain the same.

7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Adequate sewage treatment is being provided and will be provided at this point and time.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting this variance will not put any excess burden on parking on public streets and hopefully it will reduce it.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () Granting this variance will not affect the setback from the shoreline on any level.
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () Granting the variance will not affect sunlight on this property or any neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () Based on all the discussion and questions economic circumstances have not been part of this decision making.

Johnson, Lawrence, Nelson, Stimmler voted in favor of the motion. Deckert and Ponting voted against the motion. Motion to approve passed on a 4-2 vote.

Lawrence motioned and Stimmler seconded the motion to approve the 4' variance in setback from the side property line for an attached garage and sunroom on existing deck with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. Must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
3. The existing detached garage and shed must be removed from the property prior to a building permit being issued from the Zoning Department.
4. Area that will not be disturbed for construction must be tilled to a depth of 6" and seeded or sodded prior to building permit being issued. Buildings must be disposed of in an MPCA landfill and cannot be burned or buried on site.
5. The applicant must install erosion control around perimeter of project prior to any construction activity to minimize construction run-off. Erosion control must remain in place until vegetation is re-established.

6. A new septic tank must be installed and meet required setbacks to the proposed garage and lot line which is 10ft.
7. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
8. Because the improvements will result in the property reaching the maximum allowed impervious surface, no additional impervious surface (other than what is shown on the Applicant's certificate of survey dated March 4, 2020) may be added to the property in the future without first removing existing impervious surface so that the property does not exceed the 25% impervious surface limitation.
9. Must follow Stormwater Plan (Packet Attachment G) and install gutters where proposed and dry creek beds where proposed on the lot.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
It will not be in conflict with the comprehensive plan because it will remain a residence home as the rest of the homes in the area.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () There are extraordinary circumstances due to the fact of the narrow lake lot which we see much of in Sherburne County. The house was built prior to these owners. The placement of the house on the lot. The size of the lot already put the house in a non-conformity.
3. The 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. Yes (X) No () In this particular circumstance due to the improvement the owner is proposing to make. None of the improvements trigger the necessity of the variance. The necessity of the variance exists prior to the variance request.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No () It did not result from this owner or previous owners. This lot was established prior to zoning.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This is the minimum requested variance.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () Granting this variance will not alter the surrounding character in any way, shape or form. It will remain the same.

7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Adequate sewage treatment is being provided and will be provided at this point and time.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting the variance will not put any excess burden on parking on streets and hopefully it will reduce it.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () Granting the variance will not affect the setback from the shoreline on any level.
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () Granting the variance will not affect sunlight on this property or any neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () Based on all the discussion and questions economic circumstances have not been part of this decision making.

Johnson, Lawrence, Nelson, Stimmler voted in favor of the motion. Deckert and Ponting voted against the motion. Motion to approve passed on a 4-2 vote.

Lawrence motioned and Stimmler seconded the motion to approve the 60' variance in setback from the right of way of 139th St NW for an attached garage and sunroom on existing deck with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. Must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
3. The existing detached garage and shed must be removed from the property prior to a building permit being issued from the Zoning Department.
4. Area that will not be disturbed for construction must be tilled to a depth of 6" and seeded or sodded prior to building permit being issued. Buildings must be disposed of in an MPCA landfill and cannot be burned or buried on site.
5. The applicant must install erosion control around perimeter of project prior to any construction activity to minimize construction run-off. Erosion control must remain in place until vegetation is re-established.
6. A new septic tank must be installed and meet required setbacks to the proposed garage and lot line which is 10ft.

7. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
8. Because the improvements will result in the property reaching the maximum allowed impervious surface, no additional impervious surface (other than what is shown on the Applicant's certificate of survey dated March 4, 2020) may be added to the property in the future without first removing existing impervious surface so that the property does not exceed the 25% impervious surface limitation.
9. Must follow Stormwater Plan (Packet Attachment G) and install gutters where proposed and dry creek beds where proposed on the lot.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
It will not be in conflict with the comprehensive plan because it will remain a residence home as the rest of the homes in the area.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () There are extraordinary circumstances due to the fact of the narrow lake lot which we see much of in Sherburne County. The house was built prior to these owners. The placement of the house on the lot. The size of the lot already put the house in a non-conformity.
3. The 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. Yes (X) No () In this particular circumstance due to the improvement the owner is proposing to make. None of the improvements trigger the necessity of the variance. The necessity of the variance exists prior to the variance request.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No () It did not result from this owner or previous owners. This lot was established prior to zoning.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This is the minimum requested variance.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () Granting this variance will not alter the surrounding character in any way, shape or form. It will remain the same.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Adequate sewage treatment is being provided and will be provided at this point and time.

8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting the variance will not put any excess burden on parking on public streets and hopefully it will reduce it.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () Granting the variance will not affect the setback from the shoreline on any level.
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () Granting the variance will not affect sunlight on this property or any neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () Based on all the discussion and questions economic circumstances have not been part of this decision making.

Johnson, Lawrence, Nelson, Stimmler voted in favor of the motion. Deckert and Ponting voted against the motion. Motion to approve passed on a 4-2 vote.

6:30 P.M. TIM & DEB ALMEN: Requesting a variance to Section 16.2 – Interim Use Permits, Subdivision 5.18 – Rural Tourism – Requesting a variance to Rural Tourism requirement that business be located on metes and bounds parcel. The property is a platted lot. Address: 23114 Jarvis St NW, Elk River, Mn Legal: Dalmar Acres Lot 2, Blk 1 Except that part of the E 210.0 (full legal on file) Sec 36, Twp 34, Rge 26 9.17 Acres General Rural District.

Johnson read the variance request.

Glines explained basically the applicant is requesting a variance to Rural Tourism. The property is on a platted lot.

Glines read a letter in opposition of the variance request from Annette Talbot, 23060 Jarvis NW, Elk River, Mn.

Tim & Deb Almen, 23114 Jarvis St NW, Elk River, Mn were present.

Mrs. Almen explained they came to the zoning department 2 years ago to build the barn and were told there was no ordinance at that time. There was another couple (Mertz) that had already obtained an IUP for a wedding barn. They worked with the Mertz's throughout the writing of the ordinance. When the ordinance came up for a vote it was tabled by the County

Commissioners for a 2-week period and at that time being on a metes and bounds property was added to the ordinance as a requirement. They have 9.17 acres. They are secluded in the woods.

Mr. Almen said as far as traffic people will be driving slowly because they will be looking for the location.

Mrs. Almen said it would bring more traffic to the property. They have been talking with Livonia Township to see which would be safer to enter off the existing driveway or have the driveway come off the girl scout road. The township has talked about maintaining that road and upgrading it.

Mr. Almen said they have talked to the neighbors and have never heard any opposition of it, so they are surprised about the letter from Annette Talbot.

Mrs. Almen said they would have written in the rental agreement that all activities are done at 11:00 P.M. and everyone be off the property by midnight. They will have a decibel reader and a safety patrol that will make sure the decibels are less than what a lawn mower would sound like. They do not want to bother the neighbors. They will be building a parking lot. They only have 3 neighbors within a quarter mile. They meet everything within the ordinance except for the metes and bounds part. In 1998 her parents divided the property which is why it's metes and bounds.

Mr. Almen said they are at the mercy of the board. When the covid restrictions are lifted there are going to be a lot of brides and grooms that are looking for places for an event. They want a chance to be part of that. He does not feel it was the intent to disqualify his property when the ordinance was written.

Mrs. Almen said they would not be available for just weddings. They would like to have business meetings, proms and smaller funerals. It will be a new building with a new septic system. The barn would be a 2 level with a kitchen in the lower area. The new building will be on the footprint of where their house is now.

Deckert asked what the size of the venue would be.

Mrs. Almen said it would be 54'x100'. The ordinance requires them to stay under 300 people occupancy.

Deckert asked if they had considered amending the ordinance.

Mrs. Almen said applying for an ordinance amendment or a variance would be equal, and they thought it was better to go for the variance since the county commissioners were the ones that wanted to tighten up that part of the ordinance (the metes and bounds part).

Lawrence asked about the court case regarding the property.

Mr. Almen said they were instructed by Bogart Pederson to talk to David Meyers, who is a real estate lawyer, to vacate the property. They need to go to district court for that. They asked Bogart Pederson to survey the property. They were going to have David Meyers represent them at district court but after 2 weeks of not hearing of a schedule they contacted David Meyers and was told planning and zoning would not accept the decision of the court at that time to be metes and bounds.

Waytashek said the applicants had wanted to vacate the property. The reason they were able to split the lot into 2 lots was because they chose to plat the property. That's the only way they could split the lots because of lot size. Now that they wanted the wedding barn they wanted to vacate the property back to metes and bounds and still have 2 separate lots. Zoning would not support vacating the property because they were able to split the property and have 2 homes.

Mrs. Almen said they did try to purchase land from the girl scout camp but weren't able to do that.

Lawrence asked what the minimum lot size was for metes and bounds.

Glines said it was 20 acres in general rural.

Ponting asked if the existing barn and house would be removed and wondered if they would need a storm water protection plan. She thought a lot of trees would need to be removed for the parking lot. She thought they would need a lot of erosion control measures.

Mrs. Almen said the footprint of the barn will be in the footprint of the existing house. The parking lot will be in the easement of the power lines so not many trees will need to be removed. They have permission from Connexus to do that. They do have build guidelines from Connexus they need to follow for the parking lot. Most barn venues have parking is a field and this will be gravel.

Glines said staff is concerned about the major alteration in topography on the property for the parking lot. Staff calculated over an acre for just the parking lot. It would require a stormwater plan and MPDS permit from the state.

Johnson said he did visit the property and asked if their home would be inside the wedding venue.

Mr. Almen said they would be building a separate home on the property.

Glines explained an attachment in the board packet showing where everything would be located on the property.

Johnson asked what would be built first the house or the barn.

Mrs. Almen said the house and barn would be going up at the same time. It will be ordered and shipped together, and all goes up in about 2 weeks.

Lawrence asked why the request fit under rural tourism.

Glines said the wedding part was specifically under rural tourism. Any kind of special events catering to agricultural is under rural tourism in the ordinance. He read from the ordinance what was listed under rural tourism.

Lawrence said rural tourism normally had an agricultural basis and he was trying to find the agricultural basis with a wedding barn.

Glines said because of the wedding part of it. He said they would still need to go before the Planning Commission for the IUP.

Johnson opened the public hearing.

Glines reminded him there was written comment from Annette Talbot that was already read.

Johnson closed the public hearing.

Deckert said she appreciates everything the Almen's have done she understands the desire to start a business.

Deckert motioned and Ponting seconded the motion to deny the variance request to Section 16.2 – Interim Use Permits, Subdivision 5.18 – Rural Tourism with the following “Findings of Fact”:

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes () No (X)
According to state statute a variance cannot be granted to allow a use that's currently not permitted and this does not meet the IUP criteria either because it's not a platted lot.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes () No (X) There are no extraordinary circumstances with this property. The property is metes and bounds.
3. The 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. Yes () No (X) The property owner is not deprived by rights commonly enjoyed by other residential properties.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes () No (X) There are no extraordinary circumstance with the property.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes () No (X) The variance is that the property should be metes and bounds. It would be better to apply for an ordinance amendment if they want to move forward.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes () No (X) The request if granted would alter the essential character of the property because it's in a platted area abutted by residential homes.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () The applicant stated adequate sewage services would be provided.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () The applicant indicated parking would be handled onsite.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what it typical for the area immediately surrounding the development site. Yes () No (X) Not applicable.
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () The variance would not increase loss of sunlight, views or privacy from the neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () Economic considerations were not considered.

Deckert, Ponting, Lawrence and Johnson voted in favor to deny the variance request. Nelson and Stimmler voted against the motion. Motion to deny passed on a 4-2 vote.

7:07 P.M. JEREMY LEIFERMAN (SUMMIT CRAFTSMAN, LLC) (Property Owners: Gregg & Denise Leiferman) Requesting a 113' variance in setback from the OHWL of Camp Lake to alter the pitch of the current roof. Required setback from a Natural Environment Lake is 150'. Address: 9058 100th Ave SE, Clear Lake, Mn Legal: Sherburne County Boundary Comm Plat No 1 Lot 3, Blk 1 Sec 16, Twp 34, Rge 29 4.64 Acres Agricultural District and within the Natural Environment Lakeshore District of Camp Lake.

Johnson read the variance request.

March explained they are requesting a 113' variance to alter the pitch of the roof. The expansion to the dimensions of a non-conforming structure is what is triggering this variance.

Deckert questioned the need for a variance. She does not feel they are expanding the use of the property, so she was curious why the need for a variance was necessary.

Waytashek said they reference Mn statute 394.36 and that's the non-conforming structure statute. You can replace or restore but you can't expand. They are changing the roofline on the structure. When staff reviewed it, they thought that was a change. The property is located on a natural environment lake which has a 150' setback. They are close to the lake and they will be changing the exterior structure quite a bit. Staff did get comments from the DNR and they had suggestions on landscaping and tree removal to reduce the impact on the lake due to the changes.

Stimmler said they are changing the roofline, but that gable will just be changing from east/west to north/south. The footprint will stay the same.

Ponting asked what the elevation was on the lowest floor of the house to the OHWL of the lake.

Johnson said he was on site and there is a considerable height elevation from the waterline to the patio of the walkout.

Ponting asked if the plantings required by SWCD had been done yet.

Jeremy Leiferman, 9137 Ashley Terrace, Brooklyn Park, Mn was present.

Mr. Leiferman stated the trees/shrubs have been planted to the left and right of the house toward the shoreline.

Johnson opened the public hearing. After verification there was no public comments Johnson closed the public hearing.

Lawrence motioned and Stimmler seconded the motion to approve the 113' variance in setback from the OHWL of Camp Lake to alter the pitch of the current roof with the following conditions and "Findings of Fact":

Conditions:

1. As identified in the applicant's water mitigation plan, gutters shall be installed around the perimeter of the home and stormwater shall be either collected or directed away from the lake.
2. Trees and bushes shall be planted along the north and south property lines, and 5000 sq ft of low growing fescue planted between the lake and the house.
3. Prior to construction, a building permit must be obtained from the County.
4. The variance is only valid if acted upon by the applicant within one (1) year of approval.
5. The applicant has ordered 25 pin cherry trees, 25 black cherry trees, and 25 gray dogwood bushes from the SWCD to be planted along the north and south property lines from the sides of the house down towards the lake to create privacy from neighboring properties.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
Granting the variance will not be in conflict with the comprehensive plan. The comprehensive plan allows for residential homes and it matches the neighboring parcels in the area.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () The extraordinary circumstances are the original placement of the house and the proximity to the lake in the year it was built that the owners did not have control over. The narrowness and depth of the lot as well were circumstances they did not have any control over. They are not requesting to change the footprint of the house.

3. The 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. Yes (X) No () The literal interpretation does deprive the applicant of rights commonly enjoyed by others in this same district.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No () The actions do not result from current or previous owners of this parcel.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This is the minimum variance to alleviate the practical difficulty.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () The variance will not alter the character of the locality and will have no effect on surrounding properties.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Adequate sewage treatments are being provided.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting this variance will not affect the parking or loading of vehicles on public streets.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () It is not a greater height or distance from the shoreline. Very similar to other residences in the area.
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () Granting the variance will have no effect on the sunlight regarding the neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () They have considered all other reasons other than economic.

All in favor. Motion to approve passed.

7:20 P.M. BRIGHT STREAM SOLAR PARTNERS, LLC: (Property Owner: Prairie Restorations, Inc) Requesting a variance to not plant trees around the perimeter of solar farm. Address: 31922 128th St NW, Princeton, Mn Legal: SE ¼ Ex NW ¼ of NW ¼ of SE ¼ (full legal on file) Sec 5, Twp 35, Rge 26 90 Acres Urban Expansion District.

Johnson read the variance request.

Waytashek explained the applicant is requesting to not put trees up on 3 sides of the solar farm. They only want to put trees on the east side of the solar farm. They are in close proximity to the City of Princeton and the Princeton Airport.

Ian Schonwald, EDF Renewables, was present.

Mr. Schonwald said they would only like to plant trees on the east side of the property. The property is owned by Prairie Restorations and the property owner is present. The project is for Connexus and Brian Burandt from Connexus was also present.

Brian Burandt, Connexus Energy, said they have been working on the site for about 1 ½ years. Connexus has a vision of doing distributive generation renewable projects thorough out the service territory. They have projects in Isanti and Anoka Counties. Ron Bowen, owner of Prairie Restorations made a proposal to them for a project at his site. All power generated will stay local. Its 3 megawatt in size.

Johnson asked why they did not want to plant trees on the other 3 sides of the solar farm.

Mr. Schonwald said they did get comment from City of Princeton, Baldwin Township and the Princeton Airport. The City of Princeton comments on the behalf of the MnDot and the FAA. It is there strong preference due to safety issues that no trees be planted that obstruct views of any approach's pilots for the runway. He showed on a drawing where the existing trees are and what it would look like with trees on the east. The east property is furthest from the airport. They are caught in the middle of the ordinance requirements and safety concerns. They will be taking down trees on the west side due to FAA regulations.

Lawrence said Baldwin Township concludes this is a good site for a solar farm it's just a question of whether they should be required to put trees around it. The township felt that due to the fact there were many entities involved in the process it has not been an easy process. They felt if the FAA does not want trees planted for safety reasons, they are in agreement with that.

Deckert asked if the FAA made comments or if they gave that authority to the City of Princeton.

Waytashek thought that the City of Princeton comments in relation to the FAA requirements. Staff did not receive comments from the FAA but did get comments from the City of Princeton.

Johnson asked if there would be any tall communication towers on the property.

Mr. Schonwald said they will not have any communication towers on the property.

Johnson thought there should be a condition that of the county wanted trees planted in the future on the other 3 sides that could be done.

Lawrence said he liked that idea.

Waytashek asked who would be planting them in the future.

Johnson said it would be the owner of the solar farm who would need to plant them.

Lawrence asked why trees couldn't be planted on the southern lot lines since it's further away from the airport.

Mr. Schonwald said they did not get guidance on that.

The board then discussed fly zones.

Mr. Schnowald said Zone A was most restrictive, Zone B covers the outside and is less restrictive and Zone C covers the entire property.

Stimmler asked if there would be any power poles on the property.

Mr. Schnowald said they would not have power poles on the property. Everything will be underground.

Johnson asked if there were any public comments.

Ron Bowen, 2420 Co Rd 8, St Cloud, Mn was present.

Mr. Bowen was concerned about the type of trees that were to be planted since it specifies spruce trees. He would prefer not to use spruce trees because they are not native to the area. They would prefer cedar trees or other amelanchier trees.

Waytashek said the ordinance states coniferous. The developer shows black hills spruce being planted. That is also the information that has been provided to the Planning Commission for their next meeting.

Mr. Bowen asked if that could be changed.

Waytashek thought it could be changed. Once it's been approved by the County Board it needs to stay that way unless it's brought back to the Planning Commission and County Board again.

Johnson closed the public hearing.

Lawrence motioned and Stimmler seconded the motion to approve the variance to Section 16.2 - Interim Use Permits, Subdivision 5.21 C #9 – Solar Farm – to the requirement that trees must be installed around the entire perimeter of a solar farm with the following conditions and “Findings of Fact”:

Conditions:

1. Applicant must obtain approval for an Interim Use Permit (IUP) for a solar farm and rezone the property from Urban Expansion District to General Rural District. Must obtain this approval from the County Board of Commissioners within one (1) year of variance approval.
2. Applicant must obtain building permit from the Sherburne County Zoning Department to construct the solar farm within one (1) year of variance approval.
3. Trees must be planted along the entire east side of the solar farm at the same time that the solar farm is installed.
4. If the County or Township deems necessary in the future to add trees along any of the other 3 borders it has the ability to do so. Who shall pay for it to be determined when the issue arises.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
It will not be in conflict with the comprehensive plan. It is an ideal location for the establishment for a solar farm because there are no residences around.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () The existence of an airport to the northwest of the property and the requirements of the FAA regarding its regulation.
3. The 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. Yes (X) No () The proximity to the airport and the safety concerns they had for it.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No ()
The extraordinary circumstances do not result from the actions of the current or previous owners but from the requirements of the FAA.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () They are requesting the minimum variance.

6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () It will not alter and there will be no significant effect. This solar farm is proposed in the middle of a farm field. There are no residences in close proximity to it and the basic only visibility is from the east of Co Rd 45.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () It's a non-issue. There is no need for septic sewage treatment for this request.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () There will be no additional pressure put-on off-street parking in any form or any way.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () That is not applicable because there is no shoreland anywhere near the site.
10. The variance will not increase the loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () There will be effect on neighboring properties due to sunlight.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () They have taken into consideration all of the reasons including financial.

All in favor. Motion to approve passed.

7:55 P.M. JEFF & LISA WAGNER: Requesting a 30' variance in setback from the OHWL of Round Lake to build deck off existing house. Required setback from a Natural Environment Lake is 150'. Address: 4781 64th St SE, St Cloud, Mn Legal: Sherwood Shores North Lot 3, Blk 1 Sec 34, Twp 35, Rge 30 2.1 Acres Agricultural District and within the Natural Environment Lakeshore District of Round Lake.

Johnson read the variance request.

March explained the applicants are proposing a 20'x18' deck on the lake side.

7:58 P.M. Johnson made note that Deckert was no longer on the WebEx meeting.

Jeff & Lisa Wagner, 4781 64th St SE, St Cloud, Mn were present.

Mr. Wagner explained they would like to add a deck to the back of the house.

Ponting said she was struggling to find the hardship with this variance.

Mr. Wagner said the way the patio is currently set there is no walls on the side that currently has the 8' fall. The original owners that built the place didn't have children or grandchildren. You could fall right over the edge.

After some discussion the applicant agreed to remove the pavers down below with the need for a retaining wall.

Lawrence motioned and Stimmler seconded the motion to approve the 30' variance in setback from the OHWL of Round Lake to build deck off existing house with the following conditions and "Findings of Fact":

Conditions:

1. The patio pavers located within the shore impact zone shall be removed with a drainage plan implemented to prevent stormwater runoff prior to the issuance of a building permit. If needed, black dirt will be brought in and the ground tilled to a depth of 6 inches to be seeded or sodded. A shoreland alteration permit needs to be obtained prior to a building permit being issued.
2. Prior to construction, a building permit must be obtained from the County.
3. The variance is only valid if acted upon by the applicant within one (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
Granting the variance will not be in conflict with the comprehensive plan. It will remain the essential character as the neighboring properties around it.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No ()
Circumstances are the original placement of the house and the proximity to the lake. However, it appears based on the distance of the neighboring houses it is the same distance as the neighboring properties.
3. The 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. Yes (X) No ()
It would deprive this property of having a porch or area off the house which most lake homes have of some sort.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No ()
It is not the result of this owner or the previous but of the surveyor that located the original spot of the home.

5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This is the minimum requested variance that would alleviate the practical difficulty and challenge they are experiencing.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () This will not alter the essential character by any means and will not affect any neighbor by granting this variance.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Provided if granted.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting this variance will not negatively affect any parking on the street.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () It will be very similar to the neighboring properties in the area.
10. The variance will not increase the loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () It will have no effect.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () They have taken into consideration all the other factors besides the economic factor.

Johnson, Lawrence, Stimmler & Nelson were in favor of the motion to approve. Ponting voted against the motion. Motion to approve passed on a 4-1 vote.

8:15 P.M. LAURIE LARSEN: Requesting a 20' variance in setback from the right of way of 43rd Ave SE for an addition onto existing house. Required setback from the right of way is 67'. Address: 6902 43rd Ave SE, St Cloud, Mn Legal: Sherwood Shores Second Addition Lot 1, Blk 1 Sec 4, Twp 34, Rge 30 .68 Acres Agricultural District and within the Recreational Development Lakeshore District of Pickerel Lake and Round Lake.

Johnson read the variance request.

March explained the variance is for a 16'x24' addition onto the existing house.

Laurie Larsen, 6902 43rd Ave SE, St Cloud, Mn was present.

Ms. Larsen said they would like to put an addition onto the bedroom with storage underneath. She has 4 grandkids under the age of 3 and it would be nice to have a little bed or crib in there.

Johnson said he noticed where they wanted the addition there is an A/C unit and he wondered what they would do with that.

Henry Treichel, 6902 43rd Ave SE, St Cloud, Mn said that would get relocated to the front of the house.

Johnson said the area where the deck was removed needs to be brought back to a natural state. He said there was still a lot of concrete block in the whole under the deck.

Ms. Larsen said they plan to clean the area up. They are going to remove the concrete, bring in black dirt and plant grass.

Johnson opened the public hearing and closed the public hearing after no public comment.

Stimmler motioned and Nelson seconded the motion to approve the 20' variance in setback from the right of way of 43rd Ave SE for an addition onto existing house with the following conditions and "Findings of Fact":

Conditions:

1. The 384 sq. ft. of deck north of the stairs and adjacent to the lake located within the shore impact zone shall be removed prior to the issuance of a building permit. The ground must be tilled to a depth of 6 inches to be seeded or sodded. If needed, black dirt may be brought in.
2. The applicant must apply for and obtain a Shoreland Alteration Permit prior to any building permits being issued.
3. A drainage plan shall be implemented to minimize erosion and stormwater runoff prior to any building permits being issued.
4. Prior to construction, a building permit must be obtained from the County.
5. The variance is only valid if acted upon by the applicant within one (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
Granting the variance will not be in conflict.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No () There are no other circumstances over which the owner has no control.
3. The 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. Yes (X) No () It would deprive the applicant that owns the property that they should be able to build it.

4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No () It's not a result of their actions.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () The variance is the minimum variance that would alleviate the practical difficulty.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No () It will not alter the character of the locality. It will be the same as other houses in the neighborhood.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () Sewage treatment systems can be provided.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () It will not result in any adverse effects to the highway or road.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No () It will not be of greater height or lesser shoreline setback as long as it has that depth.
10. The variance will not increase the loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No () It will not increase loss of sunlight or views or privacy of the neighbors.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No () Circumstances shall not be considered so long as a reasonable use of the property exists.

All in favor. Motion to approve passed.

8:30 P.M. Ponting motioned and Nelson seconded to adjourn. Motion carried. Meeting Adjourned.

Submitted by:
Kelly Mittelstaedt, Secretary

