

**SHERBURNE COUNTY
BOARD OF ADJUSTMENT
MINUTES
JUNE 10, 2021**

Chairperson Johnson called the meeting to order at 6:00 P.M.

Roll call was taken.

Members Present:

Roger Johnson – Chairperson
William Craft
Steve Demeules
Roger Nelson
Lynda Ponting
Bud Stimmler

Staff Present:

Nancy Riddle – Planning & Zoning Administrator
Lynn Waytashek – Assistant Planning & Zoning Administrator
Mitch Glines – County Planner
Kelly Mittelstaedt – Secretary

Demeules made a motion to approve the minutes from the May 13, 2021 Board of Adjustment Meeting. Nelson seconded the motion. All in favor. Motion passed.

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

Johnson informed everyone the meeting would be audio-recorded for clarity of the minutes.

6:01 P.M. BRENT & TAMBRA BENSON: Requesting a 14’ variance in setback from Long Lake to construct a house addition, attached garage and deck. Required setback from a Recreational Development Lake is 100’. Address: 6843 41st Ave SE, Clear Lake, Mn Legal: Scenic View Lot 6 Sec 4, Twp 34, Rge 30 Clear Lake Township .39 Acres Agricultural District and within the Recreational Development Lakeshore District of Long Lake.

BRENT & TAMBRA BENSON: Requesting a 32' variance in setback from the right of way of 41st Ave SE to construct a house addition, attached garage and deck. Required setback from the right of way is 67'. Address: 6843 41st Ave SE, Clear Lake, Mn Legal: Scenic View Lot 6 Sec 4, Twp 34, Rge 30 Clear Lake Township .39 Acres Agricultural District and within the Recreational Development Lakeshore District of Long Lake.

BRENT & TAMBRA BENSON: Requesting a 6' variance in setback from a septic system to construct a house addition, attached garage and deck. Required setback from the septic system is 20'. Address: 6843 41st Ave SE, Clear Lake, Mn Legal: Scenic View Lot 6 Sec 4, Twp 34, Rge 30 Clear Lake Township .39 Acres Agricultural District and within the Recreational Development Lakeshore District of Long Lake.

Johnson read the variance request.

Nelson made a motion to remove the item from the table. Demeules seconded the motion. All in favor. Motion passed.

Brent & Tambra Benson, 6843 41st Ave SE, Clear Lake, Mn were present.

Mr. Benson thanked the board for the opportunity to come back before them with their requests. They are in a much better place than they were when the requests were originally heard.

Mr. Benson explained they will only need a 3' variance for the septic system. They will take down the garage and extend the first floor out into the living space. The main floor will have a master bedroom, master bath and an office area. They will rebuild the garage in front of where the existing garage is now. The deck will be off the back.

Johnson asked staff if all the issues had been resolved.

Waytashek said staff has a much better idea of what is going on now with the property. They did have the property surveyed and the board has a copy of that. The proposed house will have a bonus room above the garage that will include a bathroom. No bedroom will be located in this area. The house is proposed to have five (5) bedrooms. There is also an office with a closet on the main level. If a room has a closet and a window it's considered a bedroom. Mr. Benson has agreed to remove the closet from the plans. Waytashek would like that added as a condition.

Mr. Benson said the space was intended to be a built-in bookshelf. It's only 1'9" deep. It's not deep enough to be a closet. At that depth you couldn't even hang a hanger in it.

Johnson asked if the applicant could remove the doors to make it more of a built-in bookshelf.

Mr. Benson said there will not be a door on it.

Waytashek said the building official determined it was a closet.

Mr. Benson said it was an easy change to make.

Johnson said during construction the only exit from the house will be the door on the lake side. He would like to see a condition that one of the 2 windows that are facing the road have at least a 3'x3' landing and temporary stairs to come out of one of the windows as another exit.

Waytashek pointed out there is a 12' entrance coming in for the original driveway and that cannot be widened in the future. They are at 24.9% impervious surface which is just about the maximum they can be at.

Johnson asked if anyone in the audience had any comments or questions. No one did. Johnson closed the public hearing.

Stimmler motioned and Ponting seconded the motion to approve the 14' variance in setback from Long Lake to construct a house addition, attached garage and deck with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County. A razing permit may be required.
2. Since the proposed retaining walls will exceed 4 ft in height, a building permit with engineered plans must be submitted and a permit obtained from the County.
3. The applicant must apply for and obtain a major shoreland alteration permit. A \$5,000 major shoreland escrow will be required. Hill must be sodded not seeded to ensure proper slope stability as stated in the Drainage Plan dated May 20, 2021 and follow Erosion Control Design completed by the Sherburne SWCD and received on May 20, 2021. Steps to lake cannot exceed 4 ft in width.
4. Impervious surfaces proposed to be removed must be removed and the area tilled to a depth of 6 inches prior to building permit issuance.
5. No additional impervious surface area can be added in future that will cause property to exceed 25% maximum impervious surface area. Driveway cannot be expanded beyond 12 ft at entrance to road & must be installed as shown on Attachment B.
6. Applicant must install erosion control around perimeter of project to minimize construction run-off.
7. Prior to the issuance of a building permit or shoreland alteration permit, the applicant must have their erosion control inspected and approved by the Sherburne County Planning & Zoning Department.
8. All of the items outlined in the applicant's drainage plan (Packet Attachment G) must be implemented prior to Certificate of Occupancy being issued.
9. No additional bedrooms can be added to the dwelling until such a time that the septic system is upgraded or replaced with a system that is appropriately sized to treat the septage from additional bedrooms.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.
11. Closet in office must be removed completely or made into a linen closet in bathroom.
12. One of the 2 windows that are facing the road must have at least a 3'x3' landing and temporary stairs to come out of one of the windows as another exit.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No () It's a residential area and all they are doing is improving the house.
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 lot is confining and that's why they need the variance.
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 owner is just trying to improve the house by making it larger and more accessible.
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 () There's nothing extraordinary about this other than the lack of size of the lot.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's the minimum variance needed for this.
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's basically an upgrade of the house and it won't change the character of the locality.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () The existing sewage treatment system is adequate.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () The variance will not result in parking on 41st – it will have no effect on that.
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 a greater height or lesser shoreline with the variance.
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 () It will not affect sunlight or views or privacy.
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 () The circumstances shall not be considered. It's just that he wants to upgrade his house and he's got limited space to do it.

All in favor. Motion to approve passed.

Stimmler motioned and Ponting seconded the motion to approve the 32' variance in setback from the right of way of 41st Ave SE to construct a house addition, attached garage and deck with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County. A razing permit may be required.
2. Since the proposed retaining walls will exceed 4 ft in height, a building permit with engineered plans must be submitted and a permit obtained from the County.
3. The applicant must apply for and obtain a major shoreland alteration permit. A \$5,000 major shoreland escrow will be required. Hill must be sodded not seeded to ensure proper slope stability as stated in the Drainage Plan dated May 20, 2021 and follow Erosion Control Design completed by the Sherburne SWCD and received on May 20, 2021. Steps to lake cannot exceed 4 ft in width.
4. Impervious surfaces proposed to be removed must be removed and the area tilled to a depth of 6 inches prior to building permit issuance.
5. No additional impervious surface area can be added in future that will cause property to exceed 25% maximum impervious surface area. Driveway cannot be expanded beyond 12 ft at entrance to road and must be installed as shown on Attachment B.
6. Applicant must install erosion control around perimeter of project to minimize construction run-off.
7. Prior to the issuance of a building permit or shoreland alteration permit, the applicant must have their erosion control inspected and approved by the Sherburne County Planning & Zoning Department.
8. All of the items outlined in the applicant's drainage plan (Packet Attachment G) must be implemented prior to Certificate of Occupancy being issued.
9. No additional bedrooms can be added to the dwelling until such a time that the septic system is upgraded or replaced with a system that is appropriately sized to treat the septage from additional bedrooms.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.
11. Closet in office must be removed completely or made into a linen closet in bathroom.
12. One of the 2 windows facing the road must have at least a 3'x3' landing and temporary stairs to come out of one of the windows as another exit.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No () It's a residential area and all they are doing is improving the house.
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 lot is confining and that's why they need the variance.
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 owner is just trying to improve the house by making it larger and more accessible.

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 () There's nothing extraordinary about this other than the lack of size of the lot.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's the minimum variance needed for this.
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's basically an upgrade of the house and it won't change the character of the locality.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () The existing sewage treatment system is adequate.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () The variance will not result in parking on 41st – it will have no effect on that.
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 a greater height or lesser shoreline with the variance.
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 () It will not affect sunlight or views or privacy.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of this Ordinance. Yes (X) No () The circumstances shall not be considered. It's just that he wants to upgrade his house and he's got limited space to do so.

All in favor. Motion to approve passed.

Stimmler motioned and Ponting seconded the motion to approve the 3' variance in setback from a septic system to construct a house addition, attached garage and deck with the following conditions and "Findings of Fact":

Conditions:

1. Since the proposed retaining walls will exceed 4 ft in height, a building permit with engineered plans must be submitted and a permit obtained from the County.
2. Prior to construction, a building permit must be obtained from the County. A razing permit may be required.
3. The applicant must apply for and obtain a major shoreland alteration permit. A \$5,000 major shoreland escrow will be required. Hill must be sodded not seeded to ensure proper slope stability as stated in the Drainage Plan dated May 20, 2021 and follow Erosion Control Design completed by the Sherburne SWCD and received on May 20, 2021. Steps to lake cannot exceed 4 ft in width.
4. Impervious surfaces proposed to be removed and the area tilled to a depth of 6 inches prior to building permit issuance.
5. No additional impervious surface area can be added in future that will cause property to exceed 25% maximum impervious surface area. Driveway cannot be expanded beyond 12 ft at entrance to road & must be installed as shown on Attachment B.

6. Applicant must install erosion control around perimeter of project to minimize construction run-off.
7. Prior to issuance of a building permit or shoreland alteration permit, the applicant must have their erosion control inspected and approved by the Sherburne County Planning & Zoning Department.
8. All the items outlined in the applicant's drainage plan (Packet Attachment G) must be implemented prior to Certificate of Occupancy being issued.
9. No additional bedrooms can be added to the dwelling until such a time that the septic system is upgraded or replaced with a system that is appropriately sized to treat the septage from additional bedrooms.
10. The variance is only valid if acted upon by the applicant within one (1) year of approval.
11. Closet in office must be removed completely or made into a linen closet in bathroom.
12. One of the 2 windows that are facing the road must have at least a 3'x3' landing and temporary stairs to come out of one of the windows as another exit.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No () It's a residential area all they are doing is improving the house.
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 lot is confining and that's why they need the variance.
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 owner is just trying to improve the house by making it larger and more accessible.
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 () There's nothing extraordinary about this other than the lack of size of the lot.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's the minimum variance needed for this.
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's basically an upgrade of the house and it won't change the character of the locality.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () The existing sewage treatment system is adequate.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () The variance will not result in parking on 41st – it will have no effect on that.
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 a greater height or lesser shoreline with the variance.

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 affect sunlight or views or privacy.
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 () The circumstances shall not be considered. It's just that he wants to upgrade his house and he's got limited space to do it.

All in favor. Motion to approve passed.

6:18 P.M. ERIK & TRACEY OTTO: Requesting a 47' variance in setback from the right of way of 191st St NW for a new house. Required setback from the right of way is 67'. Legal: Revised Plat of Eagle Lake Park Lots 21, 22, 23, 24 & 25, Block 15 Sec 6, Twp 33, Rge 27 Big Lake Township .73 Acres General Rural District and within the General Development Lakeshore District of Eagle Lake.

Johnson read the variance request.

Erik Otto, 945 Proctor Ave, Elk River, Mn was present.

Mr. Otto explained they purchased the property in January and they want to build a home on the property.

Johnson asked why the house couldn't be pushed further back.

Mr. Otto said the slope of the lot would cause an extremely high basement ceiling if they did that.

Waytashek said the property is rather unique. It does have a very steep slope but it's not considered a bluff. There were concerns about the septic system location where it was originally proposed. They since have moved it further down the slope. The septic will be at the bottom of the hill. There is not a lot of alternatives for the lot.

Johnson likes the fact the driveway distance will be 27' from the edge of the road to the garage door for parking.

Ponting asked about the French drain and erosion control design.

Johnson asked if anyone in the audience had any comments or questions. No one did. Johnson closed the public hearing.

Demeules motioned and Stimmler seconded the motion to approve the 47' variance in setback from the right of way of 191st St NW for a new home with the following conditions and "Findings of Fact":

Conditions:

1. Must obtain a building and septic permit & pay associated fees prior to starting work on this project.
2. Must obtain an Erosion Control Permit from Zoning and install all erosion control prior to building permit being issued.
3. The applicant must follow the Stormwater & Erosion Control plan submitted on April 23, 2021. Gutters and French Drains must be installed prior to Certificate of Occupancy being granted on this house.
4. All exposed soil must be sodded (not seeded) & staked down prior to Certificate of Occupancy being issued for lot.
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 () It will be a residential house just as the plan says.
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 unique shape of the property with the significant slope does not allow for this house to be set any where else on the property.
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 lessen the ability to put a residence on this property.
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 slope of the property has always existed and it hadn't been created.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It just doesn't allow for movement of the house and they need to stay away from that slope as much as possible.
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 is again just a residence in a residential neighborhood. It's taking into consideration the slope.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () This is a new construction so the septic will be new also.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () There will be enough off-street parking during construction.
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 () No () N/A

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 height is not overwhelming.
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 () This variance will allow the property owner to put a residence on the property.

All in favor. Motion to approve passed.

6:28 P.M. ERIK ROSS: Requesting a 90' variance in lot width to construct a single-family residence with attached garage. Required lot width on a general development lake is 150'. Address: 14318 284th Ave NW, Zimmerman, Mn Legal: Oak Grove Point Lot 5 Sec 31, Twp 35, Rge 26 Baldwin Township .61 Acres General Rural District and within the General Development Lakeshore District of Little Elk Lake.

Johnson read the variance request.

Erik Ross, 11028 183rd Circle NW, Elk River, Mn was present.

Chris Thompson, Realtor, is helping Mr. Ross with the variance process.

Waytashek explained they are removing some impervious surface on the property. A portion of the driveway to this property crosses the neighboring property to the north and then comes back onto this property. A driveway easement will need to be submitted before a building permit will be issued. The neighbors well is located on the applicant's property. Staff recommended an easement for that also. They have been working with, Zach from the Planning & Zoning Office, and will need a shoreland alteration permit to address tree removal. They are using the "line-up rule" for the location of the house. There's an existing well in the existing house and that well will need to be abandoned.

Johnson was confused about the house staking and the corner stakes on the property.

Mr. Thompson said there have been a lot of changes in the preliminary process of the variance and it may not have been re-staked with the current survey. One of the applicant's kids had been playing with the stakes and some could have gotten moved that way.

Johnson thought the proposed house looked closer to the lake than the houses on either side.

Waytashek explained the "line-up rule". You take the distance of the neighbor's house on either side and then you divide by 2.

Waytashek said the applicant provided staff with a landscaping plan and a drainage plan with french drains and gutters.

Nelson asked if they had considered downsizing the size of the house.

Mr. Ross said they have, and they went from a 40' wide house to a 37' wide house.

Johnson said where the proposed new driveway is going into the house is running over the spot staked out for the septic system.

Mr. Thompson said the survey has been updated and corrected to fix that issue and new stakes have been placed.

Waytashek said they are off the septic system, but it is awfully close. She recommends the driveway be sloped away from the septic system. The more water you put on the septic system the sooner it will fail.

Johnson asked if anyone in the audience had any comments or questions.

Bryan Lawrence, 12147 293rd Ave NW, Baldwin, Mn wanted to show support for the variance request. The request has been heard by the Baldwin Planning Commission and the Baldwin Township Board. Both were in support of the request. It will be a great improvement to the property, and it fits the area. They were very diligent when they came before the boards and met all other setbacks.

Johnson closed the public hearing.

Ponting motioned and Demeules seconded the motion to approve the 90' variance in lot width with the following conditions and "Findings of Fact":

Conditions:

1. Razing permit from the Zoning Department is required for existing home and shed to be removed. All material must be brought to an MPCA approved landfill and receipts submitted to the Zoning Dept.
2. Prior to construction, a building permit must be obtained from the County.
3. A shoreland alteration permit is required. French drains are proposed in each corner of the house (4 total), gutters will direct water to French drains. Plans for French drains must be submitted with Shoreland Alteration Permit. Any tree removal must be approved in Shoreland Alteration Permit.
4. Applicant is proposing to remove a 543 sq ft of the circular portion of the driveway to get under 25% impervious surface. This area must be removed and tilled to 6 inches below grade prior to building permit being issued. The area will need to be revegetated and remain pervious.
5. Existing well in shed that will now be in footprint of proposed home will need to be sealed per MN Dept of Health requirements.
6. A copy of the recorded driveway easement will need to be submitted to the Zoning Department prior to a building permit being issued.
7. The variance is only valid if acted upon by the applicant within one (1) year of approval.

8. A copy of the recorded easement for the neighboring well will need to be submitted to the Zoning Department prior to a building permit being issued.
9. Driveway will need to be adjusted slightly to ensure there is no portion that goes over the septic system area. Also, slope driveway away from septic system.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ()
This will not be because it's a residential lot to be used for residential.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the 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 () This lot was platted out to be too narrow for today's requirements.
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's a buildable lot so he has the right to build on 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 ()
This is a very old plat.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () He has complied with every other need for no variances and this is the last one.
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's residential and will remain as residential.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () It will be a fully new septic system installed.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () This will not have an impact on any 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 () This will not be higher than any other building or house.
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 () There will be no loss of sunlight to the neighbors. They have the same proximity to the lake as this one.
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 are not coming into effect for this property.

All in favor. Motion to approve passed.

6:43 P.M. TOM SWANSON: Requesting a 71' variance in setback from the OHWL of the Mississippi River for a detached garage. Required setback from the Mississippi Scenic River is 150'. Address: 6036 16th Ave SE, St Cloud, Mn Legal: River Haven Lot 3, Block 2 Sec 31, Twp 35, Rge 30 Haven Township .72 Acres (Also owns: River Haven That Pt Lot 4 . . .full legal on file Total Acres 1.06) Scenic River District and within the Scenic River District of the Mississippi River.

Johnson read the variance request.

Tom Swanson, 6036 16th Ave SE, St Cloud, Mn was present.

Mr. Swanson explained he worked with staff and his surveyor to come up with a bluff line. He moved the garage forward and still far enough away from the well.

Glines said the garage has been moved 6' further away from the Mississippi River.

Johnson asked if any one in the audience had any comments or questions. No one did. Johnson closed the public hearing.

Stimmler motioned and Nelson seconded the motion to approve the 71' variance in setback from the Mississippi River for a detached garage with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. The applicant must apply for and obtain a shoreland alteration permit.
3. Applicant must install erosion control around perimeter of project to minimize construction run-off.
4. Prior to the issuance of a building permit, the applicant must have the retaining wall on site reviewed by a licensed engineer to ensure that they are adequately sized and constructed to handle the amount of stormwater runoff that will be directed toward them for infiltration. A copy of the engineer report must be submitted to the Planning & Zoning Office, and if the retaining walls are determined to be inadequate an alternate drainage plan must be proposed and approved by the Zoning Department.
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 () It will not be in conflict. It's a residential area and he's building a garage.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the 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 owner had no control over the ordinance. He's just building a garage and he moved it away from the last time he was here.

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 owners just trying to improve his property with a detached garage.
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 () There's nothing extraordinary about the circumstances here.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's the minimum variance needed for this detached garage.
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's basically just building a detached garage in a residential area.
7. Adequate sewage treatment system can be provided if the variance is granted. Yes (X) No () The existing sewage treatment system is adequate for the house.
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 free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () It will not affect 116th Ave. It's far enough away. There will be no effect on the 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 a greater height or lesser shoreland setback than what is typical.
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 () It will not increase the loss of sunlight, views or privacy of 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 () The owner simply wants to build a detached garage on his own property.

All in favor. Motion to approve passed.

6:50 P.M. Nelson motioned and Ponting seconded the motion to adjourn. Motion carried. Meeting adjourned.

Submitted by:
Kelly Mittelstaedt