

**SHERBURNE COUNTY  
BOARD OF ADJUSTMENT  
MINUTES  
AUGUST 10, 2023**

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

Roll call was taken.

**Members Present:**

Roger Johnson – Chairperson

David Anderson

Kodey Shaw

Steve Demeules

Bud Stimmler

Bryan Adams

Michelle MacMillan

**Staff Present:**

Zach Guttormson – Assistant Planning & Zoning Administrator

Addison Otto – County Planner

Kelly Mittelstaedt – Secretary

Stimmler wanted a change to the July 13, 2023 Board of Adjustment Minutes. On page 7 it should read “Stimmler asked the applicant if he would consider moving the pool away from the area in the corner then a variance wouldn’t be needed at all”.

Adams made a motion to approve the minutes from the July 13, 2023 Board of Adjustment Meeting with the above change. Demeules seconded the motion. All in favor. Motion passed.

Demeules made a motion to approve the evenings agenda. Anderson seconded the motion. All in favor. Motion passed.

Johnson informed everyone the meeting would be audio-recorded.

**6:02 P.M. WILLIAM DEVRIES: (Property Owner: Donald L Schumacher)**  
Requesting a 10' variance in setback from the right of way of 232<sup>nd</sup> Ave NW for a septic holding tank. Required setback from the right of way is 10'. Address: 18707 232<sup>nd</sup> Ave NW, Big Lake, Mn Legal: Eagle Point Lot 3, Block 15 Sec 31, Twp 34, Rge 27 .17 Acres Orrock Township General Rural District and within the General Development Lakeshore District of Eagle Lake.

**WILLIAM DEVRIES: (Property Owner: Donald L Schumacher)** Requesting a 10' variance in setback from the side property line for a septic holding tank. Required setback from the side property line is 10'. Address: 18707 232<sup>nd</sup> Ave NW, Big Lake, Mn Legal: Eagle Point Lot 3, Block 15 Sec 31, Twp 34, Rge 27 .17 Acres Orrock Township General Rural District and within the General Development Lakeshore District of Eagle Lake.

Johnson read the variance requests.

Otto explained the cabin was constructed in 1932 according to assessor records. Since the applicant is buying the property contract for deed a compliance inspection was not done on the property. The existing system has a straight pipe, and the applicant would like to upgrade it. The best location for the holding tank is up by the road. They are working with Orrock Township on an encroachment agreement because a portion of the holding tank will be located within the road right of way. They have received a variance from the Minnesota Health Department for the well setback from the adjacent property. The current well on the property has been sealed and the property will be hooked up to the neighboring property which is owned by the applicant.

William Devries, 18711 232<sup>nd</sup> Ave, Big Lake, Mn was present.

Mr. Devries said he is trying to get a septic holding tank installed so he can take possession of the property.

Adams asked if the property was going to be a short-term rental property.

Mr. Devries said most likely it will be.

Adams asked if it's common for the Department of Health to give a variance on a well.

Demeules said the board has seen that before.

Johnson said it doesn't happen very often.

Jesse Hagemeyer, 27043 County Road 23, Albany Mn was present. Mr Hagemeyer is the septic designer for the property. He said it was common with septic for the Department of Health to give a variance.

Adams said the County is working on the Comprehensive Plan and they are looking at doing regulations on short term rentals. That may affect the applicant as far as septic compliance and parking. The plan should be completed in the next couple months.

Johnson questioned the location of the septic by the road and the retaining walls that are currently in place. He wondered how they were going to maintain the integrity of the tank to keep it from freezing.

Mr. Devries said the railroad tie at the bottom will get replaced with big boulders. By the tank itself there won't be much of a slope. The elevation change is at the bottom and that's all getting replaced with boulders.

Mr. Hagemeyer said the tank would be insulated.

Johnson said right now there's only 6 or 8' from the edge of the asphalt to the retaining wall.

Otto suggested a Shoreland Alteration Permit be added as a condition of the variance if it is approved.

Mr. Devries said the people that are putting in the retaining wall contacted the county and were told no permits would be required for the retaining wall.

Guttormson asked how tall the boulder retaining wall would be.

Mr. Devries said it would be 4' tall.

Guttormson asked how many cubic yards of material they contractor would be moving.

Mr. Devries said he thought it was going to be 25 tons.

Guttormson said generally with that much dirt work and a septic replacement a shoreland alteration permit would be needed.

Adams asked if the retaining wall would need engineered plans.

Otto said only if it's over 4' tall.

Johnson asked if the top of the tank and all the access holes and alarm system was going to be at grade level or lower. He is concerned about the snowplow coming through and taking those items off.

Mr. Hagemeyer said those items would be at grade level but since it's a holding tank the alarm is entirely inside the tank with a wire going back to the house.

Adams said the applicant knows there will be snow stored on top of the tank in the winter.

Demeules said that would actually help with insulation.

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

Johnson said he wanted to add another condition to include the items that the Department of Health included in their variance approval.

Adams motioned and Demeules seconded the motion to approve the 10' variance in setback from the right of way of 232<sup>nd</sup> Ave NW for a septic holding tank with the following conditions and "Findings of Fact":

**Conditions:**

1. Prior to installation, a septic permit must be obtained from the County.
2. Prior to the issuance of a septic permit, the applicant must enter into an encroachment agreement with Orrock Township.
3. The existing septic system must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations.
4. The variance is only acted upon by the applicant within one (1) year of approval.
5. Prior to the issuance of a septic permit, the applicant must obtain a shoreland alteration permit.
6. The six (6) conditions of the Minnesota Department of Health variance must be met from the letter dated May 17th.

**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 all they are doing is modifying the septic system.
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 ( ) All we are doing is modifying the septic system.
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 ( ) That's also correct. All we are doing is modifying the septic system.
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 ( ) That's correct. It was done by previous owners.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No ( ) Again that's yes. It's the minimum requirements.
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 ( ) That's a yes. Again, all they are doing is modifying the septic system.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ( ) It will now. That's a yes.
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 ( ) That's correct. Modifying the septic system will not affect the parking or loading of vehicles on the public 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 ( ) That's correct. The actual building will not be changed only the septic system.
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 ( ) That's correct. The only thing they are modifying is the septic system the building will not change.
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 ( ) That's correct. The economic considerations are not considered.

All in favor. Motion to approve passed.

Adams motioned and Demeules seconded the motion to approve the 10' variance in setback from the side property line for a septic holding tank with the following conditions and "Findings of Fact":

**Conditions:**

1. Prior to installation, a septic permit must be obtained from the County.
2. Prior to the issuance of a septic permit, the applicant must enter into an encroachment agreement with Orrock Township.
3. The existing septic system must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations.
4. The variance is only valid if acted upon by the applicant within one (1) year of approval.
5. Prior to the issuance of a septic permit, the applicant must obtain a shoreland alteration permit.
6. The six (6) conditions of the Minnesota Department of Health variance must be met from the letter dated May 17th.

**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 all they are doing is modifying the septic system.
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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 ( ) That's correct. The economic considerations are not considered.

All in favor. Motion to approve passed.

**6:19 P.M.** Demeules motioned and Shaw seconded the motion to adjourn. Motion carried. Meeting adjourned.

Submitted by:  
Kelly Mittelstaedt