

**SHERBURNE COUNTY
BOARD OF ADJUSTMENT
MINUTES
AUGUST 12, 2021**

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

Roll call was taken.

Members Present:

Roger Johnson – Chairperson
Steve Demeules
Roger Nelson
Lynda Ponting
Bud Stimmler
David Anderson
William Craft – On Phone

Staff Present:

Lynn Waytashek – Interim Planning & Zoning Administrator
Addison March – County Planner
Mitch Glines – County Planner
Kelly Mittelstaedt – Secretary

Demeules made a motion to approve the minutes from the July 8, 2021 Board of Adjustment Meeting. Nelson seconded the motion. All in favor. Motion passed.

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

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

6:02 P.M. DOLORES HENNUM: Requesting a 10’ variance in setback from the right of way of Fremont Drive NW for a septic system upgrade. Required setback from the right of way is 10’. Address: 27045 Fremont Dr NW, Zimmerman, Mn Legal: That part of Government Lot 3 . . . (full legal on file) Sec 4, Twp 34, Rge 26 Livonia Township .36 Acres General Rural District and within the General Development Lakeshore District of Lake Fremont.

Colleen & Tim Becker, 27045 Fremont Dr NW, Zimmerman, Mn were present. Colleen and Tim are Ms. Hennum’s daughter and son-in-law.

Ms. Becker explained the septic failed and they need a new one.

Glines said the septic designer had reached out to him because she was having a difficult time with the location of the drainfield. It will be a type 3 system. Livonia Township is fine with the drainfield as long as it does not go closer to the centerline of the road than 33'. That is enough room if they need to do maintenance on the road. Zoning staff will need a copy of the agreement between the applicant and Livonia Township to encroach in the right of way.

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

Nelson motioned and Ponting seconded the motion to approve the 10' variance in setback from the right of way of Fremont Drive NW for a septic system upgrade with the following conditions and "Findings of Fact":

Conditions:

1. Applicant must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
2. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
3. The County will require a copy of the Right-of-Way (ROW) Agreement between the property owners and Livonia Township allowing the drainfield to encroach into the ROW prior to the septic permit being issued.
4. The septic system must not be closer than 33' to the centerline of Fremont Drive per the Township's comments.
5. The variance is only valid if septic permit has been obtained from the County, by the applicant within (1) year of approval.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No () Every home needs a septic.
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 () It's a small lot that was made back when Highway 169 was built in the 30's.
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 () Every home needs a working septic.
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 house was built in the 90's.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () They had to squeeze it in. Looks like they did not have much choice.

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 be under ground and you won't know it's there.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's the purpose of the variance.
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 driveway is fairly wide and they should have room to park any equipment.
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 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 () No () N/A
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 need a septic for proper living conditions.

All in favor. Motion to approve passed.

6:10 P.M. TROY TUFTO: Requesting a 38' variance in setback from the OHWL of Briggs Lake for a septic system upgrade. Required setback from a Recreational Development Lake is 100'. Address: 4253 109th Ave SE, Clear Lake, Mn Legal: Wildwood Addition Lot 22, Block 1 Sec 22, Twp 35, Rge 29 Palmer Township .27 Acres Agricultural District and within the Recreational Development Lakeshore District of Briggs Lake.

Angela Busse, septic designer, was present.

Ms. Busse explained they have obtained the lot line agreement from the neighbor. The existing drainfield is failing and it runs on the north side of the property. They will be installing a new 500-gallon pump ball to a 16x20 pressure bed.

Waytashek asked what a septic pump ball was.

Ms. Busse said it was a plastic ball that looks similar to a witch's brew. The pump tank is used to lift effluent to the drainfield.

Ponting asked if the existing septic tank was still going to be used.

Ms. Busse said it was.

Johnson asked what they were going to do to protect the bank going down to the lake.

Ms. Busse said the system is not as close to the bank as it looks. There is a tree close by and they will use silt fencing.

Glines said there is a condition of the variance to have erosion control installed.

Ms. Busse said they seed every septic job when they are done.

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 38' variance in setback from the OHWL of Briggs Lake for a septic system upgrade with the following conditions and "Findings of Fact":

Conditions:

1. Applicant must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
2. Erosion control must be installed between the proposed septic area and lake prior to installation of the new septic system.
3. The variance is only valid if septic permit has been obtained from the County, 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 ()
The comprehensive plan calls for an active complying 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 () This is a failing system that needs to be upgraded. This is the best place to put it.
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 () All residence need a good 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 () This is just a system that got old.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This was about the only place to put it and they are trying to get as far away from the lake 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 () It will not even be seen after it's done.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's the reason for the variance.
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 adequate parking, there might be a short-term issue but eventually it will be fine.

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 is the minimum.
10. The variance will not increase loss of sunlight, views or privacy of the applicable regulation and height of structure. Yes () No () N/A
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 is a failed system that needs to be replaced.

All in favor. Motion to approve passed.

6:17 P.M. ANN KARSPECK: Requesting a 9' variance in setback from the side property line for a septic system upgrade. Required setback from the side property line is 10'. Address: 23519 189th St NW, Big Lake, Mn Legal: Rustic Ridge Lot 5 Sec 31, Twp 34, Rge 27 Orrock Township .27 Acres General Rural District and within the General Development Lakeshore District of Eagle Lake.

Ann Marie Karspeck, 23519 189th St NW, Big Lake, Mn was on the phone to present her request.

Ms. Karspeck said her property is on Eagle Lake and the septic is non-compliant.

Glines explained there has been a survey done of the property and there is a fence along the property line. They will have an insulated pipe if there was to be parking of vehicles in the area. Conditions were discussed if the septic variance were to be approved.

Ms. Karpseck agreed the driveway would be moved to accommodate the drainfield area.

Demeules asked if the current survey was in place of a lot line agreement.

Glines said that was correct.

Ms. Karspeck said she has talked to the neighbors on both sides about the septic variance.

Johnson said when he was on sight, he thought there would be a way the drainfield could go between the trees and stay further away from the driveway.

Ms. Karspeck said they chose to have the pipe insulated and be closer to the driveway otherwise they would have had to removed 3 trees. They enjoy the privacy of the trees.

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

Stimmler motioned and Demeules seconded the motion to approve the 9' variance in setback from the side property line for a septic system upgrade with the following conditions and "Findings of Fact":

Conditions:

1. Applicant must obtain a septic permit and pay the associated fees to Zoning prior to septic install.
2. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
3. With the relocation of the new driveway, the driveway must be constructed so it is sloped away from the drainfield as to not allow stormwater runoff to the drainfield. The area on the south of the new driveway must also have a fence or other barrier as to not have vehicles parking on the drainfield. The supply pipe from the house to the tank must be insulated per the septic design.
4. The variance is only valid if septic permit has been obtained from the County, 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.
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 owners have no control over the ordinance. It's just a small lot.
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 () Actually the owners are improving the situation by putting a new septic in.
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 on the lot.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () The variance is the minimum variance which would alleviate it.
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 () They will not change the character of the locality.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's the reason they are asking for the variance.
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 not be any problem with parking on 189th 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 () 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 variance will not increase loss of sunlight, 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 () Considerations or circumstances should not be considered. It's just an upgrade to the septic.

All in favor. Motion to approve passed.

6:28 P.M. MICHAEL KRAMER: Requesting a variance to the Shoreland Ordinance Section 14, Subdivision 5.5B1 which states “Impervious surface coverage of lots must not exceed 25 percent of the lot (for example: driveways, structures, sidewalks, and patios) area”. Address: 10404 55th St SE, Clear Lake, Mn Legal: E 50’ of W 100’ of the here in . . . (full legal on file) Sec 28, Twp 35, Rge 29 Palmer Township .18 Acres Agricultural District and within the Recreational Development Lakeshore District of Briggs Lake.

MICHAEL KRAMER: Requesting a 4’ variance in setback from the side property line for a deck. Required setback from the side property line is 10’. Address: 10404 55th St SE, Clear Lake, Mn Legal: E 50’ of W 100’ of the here in . . . (full legal on file) Sec 28, Twp 35, Rge 29 Palmer Township .18 Acres Agricultural District and within the Recreational Development Lakeshore District of Briggs Lake.

Michael Kramer. 10404 55th St SE, Clear Lake, Mn was present.

Mr. Kramer explained they purchased the property in 2009 and they are restoring the deck that was originally there. They removed the deck when they purchased the property because it was in rough shape and wasn’t safe. Over the last 12 years they have done a lot to minimize the impervious surface. It was at 40% and they have gotten it down to around 29%.

March said the original deck was 150 sq ft. The applicant has photos to document the deck that was there at one time. The deck is acting as the water oriented accessory structure on the property. The deck will not be attached to the house and only needs to meet a 10’ setback to the lake.

Demeules said normally he would be against a variance for impervious surface, but the applicant has done an excellent job of getting the impervious down from what it originally was. Palmer Township was in support of the request. They did have some conditions they suggested for the property.

March said the board did receive a copy of the swale design that soil and water conservation district put together for the property. The stairs going down to the lake will be removed and replaced too.

Stimmler asked why the retaining wall would need to be removed.

Mr. Kramer said the block wall is cracking. They will bring in fill and regrade the slope. They have received direction from the SWCD on this as well.

Waytashek said a shoreland alteration permit will be required for that work.

Johnson asked if the deck that was used to access the service door will stay or will be removed.

Mr. Kramer said that portion is new and free standing and will remain.

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 variance to the Shoreland Ordinance Section 14, Subdivision 5.5B1 which states “Impervious surface coverage of lots must not exceed 25 percent of the lot (for example: driveways, structures, sidewalks, and patios) area” 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 obtain a shoreland alteration permit.
3. No additional impervious surface may be added to the property in the future.
4. Applicant must install SWCD recommended stormwater control outlined in Packet Attachment I and the email from Dan Cibulka on July 20, 2021, including gutters and a downspout that directs water under the deck to a 15 ft. grassy swale running parallel to the east property line. This stormwater control must be implemented by June 1, 2022.
5. The retaining wall down by the lake must be removed by June 1, 2022.
6. Applicant must install erosion control around perimeter of project to minimize erosion and sedimentation.
7. The variance is only valid if a permit has been obtained from the County 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 ()
The property will still be used as it was before.
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 () This is a small lot, and the applicant has taken extraordinary steps to reduce the impervious.

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 () He's making improvements to the property and this is the only way he can.
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 () These are just small lots and there's just not a lot of room to get around.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () There has been a vast improvement in the impervious and he went quite a ways to get it close.
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 a basic cabin on the lake it matches a lot of other ones in the area.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () The septic has not been an issue.
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 looks like there's enough parking and workspace there to do the improvements.
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 () These are decks that won't interfere with anything.
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 won't be an issue. Nothing is going up that high.
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 () These are basic improvements to an existing house.

All in favor. Motion to approve passed.

Demeules motioned and Nelson seconded the motion to approve the 4' variance in setback from the side property line for a deck 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 obtain a shoreland alteration permit.
3. No additional impervious surface may be added to the property in the future.
4. Applicant must install SWCD recommended stormwater control outlined in Packet Attachment I and the email from Dan Cibulka on July 20, 2021, including gutters and a downspout that directs water under the deck to a 15 ft. grassy swale running parallel to the east property line. This stormwater control must be implemented by June 1, 2022.
5. The retaining wall down by the lake must be removed by June 1, 2022.
6. Applicant must install erosion control around perimeter of project to minimize erosion and sedimentation.

7. The variance is only valid if a permit has been obtained from the County 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 ()
The property will still be used as it was before.
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 () This is a small lot, and the applicant has taken extraordinary steps to reduce the impervious.
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 () He's making improvements to the property and this is the only way he can.
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 ()
These are just small lots and there's just not a lot of room to get around.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () There has been a vast improvement in the impervious and he went quite a ways to get it close.
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 a basic cabin on the lake it matches a lot of other ones in the area.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ()
The septic has not been an issue.
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 looks like there's enough parking and workspace there to do the improvements.
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 ()
These are decks that won't interfere with anything.
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 won't be an issue. Nothing is going up that high.
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 () These are basic improvements to an existing house.

All in favor. Motion to approve passed.

6:42 P.M. SAM GUIDARELLI: Requesting a 4' variance in setback from the centerline of 146th St NW for an addition on house. Required setback from the centerline is 100'. Address: 18831 146th St NW, Elk River, Mn Legal: S 125' of N 380' . . . (full legal on

file) Sec 36, Twp 33, Rge 27 Big Lake Township 1.26 Acres General Rural District and within the Agricultural River District of the Elk River.

Jay Albrecht, 23355 County Road 1, Elk River, Mn was present. Mr Albrecht is from, Albrecht Building and Remodeling, and is representing the applicant.

Mr. Albrecht explained the applicant would like to put an addition on the side of his house for his growing family. They currently have 2 bedrooms and would like to have 4 bedrooms. He tore down a lean-to on the back of his garage and will be adding onto the garage for more storage.

March explained the applicant does not need a variance for the garage addition. The house addition will be a 552 sq ft addition. They will be upgrading the septic system to accommodate the additional bedrooms that will be added. The addition will be in line with the existing house.

Johnson wanted a condition that the septic shall be upgraded prior to or in conjunction with the addition.

Mr. Albrecht said the septic permit has been submitted.

Waytashek asked if the septic system would be installed prior to starting the house addition.

Mr. Albrecht said he would because they can't get the equipment for the septic back around the house once the addition is built.

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

Stimmler motioned and Anderson seconded the motion for a 4' variance in setback from the centerline of 146th St NW for an addition on house with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. The variance is only valid if a permit has been obtained from the County by the applicant within one (1) year of approval.
3. Septic system needs to be installed and finalized prior to building permit being issued.

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.
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 property owners had no control over the circumstances. The variance is not going to be any closer to the road.
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 property owners are just improving the house with an addition.

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 house other than that he needed a variance for the original house.
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 will not alter the character. It will actually improve the neighborhood with the addition.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's one of the conditions that needs to be met.
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 any parking or interference with any 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 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, 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 () Circumstances should not be considered. It's an addition to his house.

All in favor. Motion to approve passed.

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

Submitted by:
Kelly Mittelstaedt