

**SHERBURNE COUNTY
BOARD OF ADJUSTMENT
MINUTES
AUGUST 13, 2020**

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

Roll call was taken.

Members Present:

Roger Johnson – Chairperson

Roger Nelson

Bud Stimmler

Steve Demeules

Staff Present:

Lynn Waytashek – Assistant Planning & Zoning Administrator

Marc Schneider – Senior Planner

Mitch Glines – County Planner

Addison March – County Planner

Kelly Mittelstaedt – Secretary

Nelson made a motion to approve the minutes from the July 9, 2020 Board of Adjustment Meeting. Demeules seconded the motion. All in favor. Motion passed.

Nelson motioned to approve the evening's agenda. Demeules seconded the motion. All in favor. Motion passed.

Johnson informed everyone the meeting would be audio-recorded.

6:01 P.M. DEBORAH K & GARY WAYNE HYDE: Requesting a 19' variance in setback from the OHWL of Lake Helene for a septic system upgrade. Required setback from a Natural Environment Lake is 150'. Address: 13717 279th Ave NW, Zimmerman, Mn Legal: Forest Hills Addition Lot 2, 3 & 4, Bock 2 Sec 31, Twp 35, Rge 26 1.08 Acres Baldwin Township General Rural District and within the Natural Environment Lakeshore District of Lake Helene.

Johnson read the variance request.

Chris Martin, 13717 279th Ave NW, Zimmerman, Mn was present. Mr. Martin was representing Mr. & Mrs. Hyde and is their son-in-law.

Mr. Martin explained they need the variance for a new septic system, and it is designed for the furthest place away from the lake that they can go.

Demeules asked if the current septic system is failing.

Mr. Martin said it was an old cesspool. They recently put in a washer and dryer and now it is failing.

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

Glines explained staff received a septic system application and upon review it was determined the OHWL goes up along the lot itself. Therefore, they need to meet the 150' setback from the lake.

Nelson motioned and Demeules seconded the motion to approve the 19' variance in setback from the OHWL of Lake Helene 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 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. It will improve the health and safety of the homeowner.
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 or property since enactment of the relevant Ordinance have had no control. Yes (X) No () It will not. It was an extremely small platted lot from many years ago.
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 () We are eliminating an old cesspool and upgrading for health and safety reasons.
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 does not. The lot was platted several years ago.

5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () If it were going from the lakeshore versus the shoreline it would not even be needed.
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. It will actually improve the health and safety of the homeowner.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () It is actually improving over the cesspool that was there.
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 only traffic will be during the 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 (X) No () It will be underground.
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 does not affect the foliage.
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 () Every home needs a working septic system.

All in favor. Motion to approve passed.

6:08 P.M. ELAINE E FILLMORE: Requesting a 40' variance in setback from the OHWL of Ann Lake for a septic system upgrade. Required setback from a Recreational Development Lake is 100'. Address: 16491 254th Ave NW, Big Lake, Mn Legal: Ann Lake Beach Lots 1, 2 & 3, Block 12 Sec 15, Twp 34, Rge 27 .28 Acres Orrock Township and within the Recreational Development Lakeshore District of Ann Lake.

Johnson read the variance request.

Elaine Fillmore, 811 2nd Ave NW, Buffalo, Mn was present.

Ms. Fillmore explained she sold the property but needs a 40' variance from Ann Lake for the septic system.

Glines explained the septic compliance failed so they had a design done and staff determined the OHWL on Ann Lake and that a variance would be needed.

Glines stated paperwork had been submitted to combine the lots.

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

Nelson motioned and Stimmler seconded the motion to approve the 40' variance in setback from the OHWL of Ann 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. The existing septic tank must be abandoned per Minnesota Pollution Control Agency (MPCA) regulations and the required septic abandonment form submitted to Zoning.
3. All six (6) lots must be combined and the lot combination form must be submitted to the County's Auditor/Treasurer's Office.
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 improve the health and safety of the homeowner.
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 () They tried to take care of it by combining the lots to solve part of the problem.
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 () It's an extremely small lot. She tried to fix it the best she could by combining the 6 lots.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It just is.
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 completely underground.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () It's an upgrade to the existing system.
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 just be truck traffic 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 (X) No () It will be underground.
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 is below ground.

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 () It will improve the health and safety of the new homeowner.

All in favor. Motion to approve passed.

6:16 P.M. ROBERTA CHELBERG: Requesting a 15' variance in setback from the OHWL of Briggs Lake for a septic system upgrade. Required setback from a Recreational Development Lake is 100'. Address: 5306 100th Ave SE, Clear Lake, Mn Legal: Oak Grove Beach Lot 8 & N ½ of Lot 9, Block 1 Sec 28, Twp 35, Rge 29 .28 Acres Palmer Township Agricultural District and within the Recreational Development Lakeshore District of Briggs Lake.

ROBERTA CHELBERG: Requesting a 10' variance in setback from the right of way of 100th Ave SE for a septic system upgrade. Required setback from the right of way is 10'. Address: 5306 100th Ave SE, Clear Lake, Mn Legal: Oak Grove Beach Lot 8 & N ½ of Lot 9, Block 1 Sec 28, Twp 35, Rge 29 .28 Acres Palmer Township Agricultural District and within the Recreational Development Lakeshore District of Briggs Lake.

Johnson read the variance request.

Dan Eichers, 818 11 ½ St N, Sauk Rapids, Mn was present.

Mr. Eichers and his wife recently purchased the property from the Chelberg's.

Demeules asked if they were moving to the property.

Mr. Eichers said it would be a secondary residence.

Waytashek suggested the board might want to recommend having the property staked so the septic does not go into the right of way.

Glines said the property has been surveyed.

Mr. Eichers said the property lines have been pinned and staked.

Nelson asked if the lots have been combined.

Mr. Eichers said he just received the paperwork to do that.

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

Glines explained it was a property transfer. The septic compliance failed and they need a variance.

Demeules motioned and Stimmler seconded the motion to approve the 15' 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. 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 two (2) lots must be combined, and the lot combination form must be submitted to the County's Auditor/Treasurer's Office.
4. If any portion of the septic is in the floodplain, then the septic system must meet 7080.2270 (Floodplain areas) requirements.
5. New well must be installed prior to septic permit being issued.
6. 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 and it will not alter the use of the land.
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 () These are small lots and it's hard to get the setbacks.
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 working 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 ()
It's getting about as far away from the lake as possible.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's as far away and still on the property 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 be underground and not seen.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's why the variance is being applied for.
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 might be some short-term issues during construction – long term will not have an issue.

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 all be underground.
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 all be underground and not be an issue.
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 reason for the variance is to have an active septic system.

All in favor. Motion to approve passed.

Demeules motioned and Nelson seconded the motion to approve the 10' variance in setback from the right of way of 100th Ave SE 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 two (2) lots must be combined, and the lot combination form must be submitted to the County's Auditor/Treasurer's Office.
4. If any portion of the septic is in the floodplain, then the septic system must meet 7080.2070 (Floodplain areas) requirements.
5. New well must be installed prior to septic permit being issued.
6. 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 and it will not alter the use of the land.
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 () These are small lots and it's hard to get the setbacks.
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 working 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 () It's getting about as far away from the lake as possible.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () It's as far away and still on the property 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 be underground and not seen.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () That's why the variance is being applied for.
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 might be some short-term issues during construction – long term will not have an issue.
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 all be underground.
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 all be underground and not be an issue.
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 reason for the variance is to have an active septic system.

All in favor. Motion to approve passed.

6:26 P.M. MICHAEL LEE GRAHAM: Requesting a 19' variance in setback from the centerline of CSAH 19 to construct a room addition at rear of existing garage and house. Required setback from the centerline of CSAH 19 is 130'. Address: 27808 104th St NW, Zimmerman, Mn Legal: E 330' of S 759' & s 396' of . . . (full legal on file) Sec 35, Twp 35, Rge 26 14.75 Acres Baldwin Township General Rural District.

Johnson read the variance request.

Michael Graham, 27808 104th St NW, Zimmerman, Mn was present.

Mr. Graham explained they bought the property in 2016 and moved in last summer. They would like to build an addition to the rear of the house. The addition will not be getting any closer to the setbacks than the original house. The house was built in the late 1960's. When they built the garage it got closer to the road than the house.

Stimmler asked if the proposed deck has anything to do with the original setback.

Waytashek said the setback is 130' and they are not proposing to go any closer than they already are. The deck and addition will be on the back of the house.

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 19' variance in setback from the centerline of CSAH 19 to construct a room addition and 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 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 fits in the 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 () It fits in the same lot size and shape as previous.
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 be depriving the applicant of rights commonly enjoyed by other 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 (X) No ()
They do not result from the actions of the current or previous owner.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () The variance requested is 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 actually it will improve the character of the locality.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ()
The septic has been checked and it is in compliance.
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 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 ()
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 (X) No () It will not increase the loss of sunlight, views or privacy of 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 ()
Considerations or circumstances shall not be considered. It is actually an upgrade to the property.

All in favor. Motion to approve passed.

6:34 P.M. AARON B JOHNSON: Requesting a variance to Section 8 – (General Rural District) Subdivision 6.6 (Dimensional Regulations) – Requesting a 3’10” variance in height for an accessory structure on less than 5 acres. Address: 17285 211th Ave NW, Big Lake, Mn
Legal: Manchester Oaks Lot 2, Block 2 Sec 16, Twp 33, Rge 27 4.7 Acres Big Lake Township and within the Lakeshore District of Unnamed Lake #71-229.

Johnson read the variance request.

Aaron Johnson, 17285 211th Ave NW, Big Lake, Mn was present.

Mr. Johnson said he was trying to get a height variance for his detached garage. He needs 9’ height garage doors so he can out his boats and fish house in there. He is looking for more storage and his contractor suggested the most cost-effective way was to have a bonus room above the garage. The roof line of the garage will match the house. It will not look out of place. It’s the same peak as the house. He has 4.7 acres and if he had 5 acres he could go 35’ high.

Stimmler asked if he would be using the same driveway.

Mr. Johnson said he would.

Johnson asked why he needed a bathroom on the second floor if it was just going to be for storage.

Mr. Johnson said the bathroom was on the main floor. He wants a bathroom in the garage so when he’s outside working, he doesn’t need to go all the way in the house to use it.

Johnson asked what septic system the bathroom would be hooked up to.

Mr. Johnson said it would be on a holding tank with an alarm. He checked with the County and that was acceptable.

Waytashek said staff would rather see it hooked up to the existing drainfield. That would be something to check with the building official about.

March explained there was a condition about getting a written statement from a licensed septic designer that the current septic system is sized appropriately.

Johnson told the applicant he may need a second septic system on the property.

Mr. Johnson asked what the difference would be if he had a holding tank with an alarm and had it pumped.

Waytashek said it was an issue that staff would discuss further with the building official if the variance is granted.

Mr. Johnson said both his neighbors have over 5 acres and could have buildings that were taller in height.

Waytashek said staff worries about accessory buildings with bathrooms could potentially become living quarters in the future.

Waytashek said the applicant will be required to sign a statement saying the structure will not be living quarters and that will be recorded so a property search would show that for future buyers.

Mr. Johnson said he has a 5-bedroom house and doesn't have a need for more.

Stimmler asked if the applicant wasn't asking for a height variance could he still have a bathroom in the accessory structure.

Waytashek said he could.

Johnson asked if anyone 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 3'10" variance in height for an accessory structure with the following conditions and "Findings of Fact":

Conditions:

1. Prior to construction, a building permit must be obtained from the County.
2. No business may be operated from this accessory structure without the proper Interim Use Permit approved by the County Board.
3. The applicant must sign and record a Zoning Agreement, stating that the building will not be designed or used for living quarters
4. Prior to issuance of a building permit, the applicant must provide a written statement by a licensed septic designer that the current septic system is sized appropriately for the additional bathroom hook-up. If the system is not sized appropriately, a septic system upgrade will be needed.
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 ()
The variance will not be in conflict even though they are going with extra height.
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 do not result from size or shape or other circumstances.

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 interpretation would deprive the applicant of rights commonly enjoyed by other 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 (X) No () They do not result from the actions of the current or previous owners – although he is asking for a height variance.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () This 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 essential character of the locality and there will be no significant effect on surrounding properties. It actually will improve it.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () As long as condition #4 is 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 flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () Granting the variance will not result in 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 () 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 (X) No () The variance will not increase loss of sunlight, views or privacy of 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 () Circumstances shall not be considered. This is a reasonable use of the property.

All in favor. Motion to approve passed.

6:49 P.M. NICK GREENE: Requesting a variance to Section 7 (Agricultural District) Subdivision 6.3 (Dimensional Regulations) – Requesting a 20’ variance in setback to the Natural Gas Pipeline Easement for a detached garage. Required setback from Natural Gas Pipeline Easement is 50’. Address: 10563 273rd Ave NW, Zimmerman, Mn Legal: The Ridges of Livonia Lot 1, Block 2 Sec 2, Twp 34, Rge 26 2.5 Acres Livonia Township.

Johnson read the variance request.

Nick Greene, 10563 273rd Ave NW, Zimmerman, Mn was present.

Mr. Greene said he was looking to build a detached garage.

Demeules asked if it was going to be a slab on grade.

Mr. Greene said it was.

Johnson asked if he was to turn the garage would it make the variance less.

Mr. Greene said that would get too close to the road right of way and he would need more fill.

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

Demeules motioned and Nelson seconded the motion to approve the 10' variance in setback from Natural Gas Pipeline Easement 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 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 does not change the land use.
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 pipeline is actually encroaching quite a ways 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 () The location of the pipeline significantly creates a smaller lot.
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 pipeline was there before the house was.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () There may be other options but they aren't really viable.
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 fits in with the other residence.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ()
The current 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 flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No () There is significant off-road parking.

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 () 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 (X) No () There is no residence within shadow distance.
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 () He is not doing it to save money.

All in favor. Motion to approve passed.

6:56 P.M. ADAM & MARTI MILLER: Requesting a 10' variance in setback from the right of way of 102 ½ St NW for an addition and deck on existing house. Required setback from the right of way is 67'. Address: 25894 102 ½ St NW, Zimmerman, Mn Legal: Prairie Hills Second Addition Lot 5, Block 3 Sec 13, Twp 34, Rge 26 2.59 Acres Livonia Township.

Johnson read the variance request.

Adam Miller, 25894 102 ½ St NW, Zimmerman, Mn was present.

Mr. Miller said they would like to build an addition and deck on the back of the house. The original structure does not meet the setback to the road.

March said the original building permit was issued in 2006 and the site plan shows the house meeting the 67' setback from the road right of way. At some point they decided to add a porch off the front of the house.

Mr. Miller said the porch was part of the original construction.

Waytashek said what was built was different than what was originally submitted and reviewed by building inspectors. She said the building inspectors don't have plans with them when they go out to the site. Inspectors are checking for code issues not setbacks.

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

Nelson motioned and Stimmler seconded the motion to approve the 10' variance in setback from the right of way of 102 ½ St NW for an addition and deck on existing 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 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 () This is a residential 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 house was built in the wrong place.
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 is improving the livability of his home.
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 builder built it in the wrong place.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () The addition is actually farther away from the road than the existing home.
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 blend in with the other houses in the area.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () There was a compliant check on the septic.
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 only be temporary construction traffic.
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 () 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 (X) No () There are no trees close by.
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 () He is not doing it to save money. He wants to improve his living space.

All in favor. Motion to approve passed.

7:03 P.M. DAVID ADLIN: Requesting a 48' variance in setback from the OHWL of Briggs Lake for additions on existing house. Required setback from a Recreational Development Lake is 100'. Address: 10690 55th St SE, Clear Lake, Mn Legal: Cedar Point Lot 16 & 17, Block 6 Sec 27, Twp 35, Rge 29 .56 Acres Palmer Township Agricultural District and within the Recreational Development Lakeshore District of Rush Lake.

Johnson read the variance request.

David Adlin, 10690 55th St SE, Clear Lake, Mn was present.

Mr. Adlin said he would like to have a front entry and make it handicapped accessible. On the lakeside he would like to add an addition on his current deck.

Demeules asked if there was currently a deck on the front of the house.

Mr. Adlin said there was.

Demeules asked what the plan was for rainwater/runoff mitigation.

Mr. Adlin said the water resource specialist came to the property and made suggestions about gutters and rainwater barrels. The architectural plans for the addition will have gutters.

Demeules asked if he actually had a plan drawn up.

Mr. Adlin said he did not.

Demeules would like to see a stormwater plan as a condition if the variance were granted.

Johnson said the survey shows a 3' addition on the house all the way across.

Mr. Adlin said that was true.

Schneider said after talking with the building official the house should have a 3' walkway in front of the sliding glass doors not a 2' walkway. Right now, the house has a 2' walkway and that is not to code. He said the addition will go out 2' from the house and the decking another 1' from the house.

Johnson said that is not what the survey shows. The survey shows the addition going the entire 3' out from the house.

Mr. Adlin said the addition is not going closer to the lake than the current house and the survey is wrong.

Johnson asked if the variance was to the house line or to the deck.

Schneider said it was to the deck.

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

Schneider read the recommended conditions if approved.

Demeules said he would like to change the wording on condition #3 because he does not feel the applicant has a stormwater management plan. He thinks it's an impervious calculation plan.

Waytashek said according to the survey the applicant is going to be closer to the lake than the requested amount.

Schneider said the surveyor incorrectly drew the closest setback. The closest setback is actually the existing deck to the east and staff did not get a revised survey showing that dimension.

Schneider said the survey that is in the packet is not the right survey. He received a revised version on July 24th that shows the 52' setback to the deck to the east.

Johnson asked if that survey had the correct line to the house addition.

Schneider said that still was not correct.

Schneider passed around the correct survey for the board to see.

Johnson would like to see a revised survey to show how the house is being built according to the plans before the permit is issued.

Demeules said with the lake being on the impaired water list it's important to take care of some of these issues now because they might never see another opportunity on this property to do any mitigation.

Mr. Adlin would like the rain mitigation addressed during the final inspection or spring or summer time when the construction is finished.

Demeules said the rain mitigation does not need to be completed for the permit. Has to be completed before the final is approved.

Waytashek said the plan for the stormwater would need to be approved before he gets the building permit. The plan does not need to be implemented and completed until the final building inspection.

Mr. Adlin asked if the revision of the Bogart architectural plan would require additional expenses for him or would they realize they made a mistake.

Johnson said he would need to negotiate that with Bogart Pederson.

Demeules motioned and Stimmler seconded the motion to approve the 48' variance in setback from the OHWL of Briggs Lake for additions on existing house with the following conditions and "Findings of Fact":

Conditions:

1. The applicant must obtain a building permit and pay the associated fees prior to starting work on this project.
2. A Shoreland Alteration Permit is required.

3. Prior to the issuance of any permits on the property the applicant must allow the county to verify that the reduction in impervious surface must be done according to the impervious calculation plan prepared by Bogart Pederson dated 07/15/2019 and inspected and approved by Zoning Staff.
4. No additional impervious surface will be permitted on this property.
5. The variance is only valid if acted upon by the applicant within one (1) year of approval.
6. Stormwater mitigation plan is required and followed by SWCD and done before the final inspection.
7. Addition needs to follow packet attachment C2. With maximum 3' deck added the entire length on the house on lake side.
8. Revise the survey to reflect the actual building and deck.

Findings of Fact:

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No () It will not change the use of the land.
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 () Basically the house was built without the setbacks that are currently used.
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 () With the current setbacks there couldn't be any additions without the variance.
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 ordinance wasn't the same when it was originally built.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No () The addition is actually not getting closer to the lake.
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 () There is similar homes in the area.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No () It would be in compliance if it was issued a permit.
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 long-term issues with parking.
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 () The addition and the height of it will not be any greater than what is currently there.
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's not close enough to any other residence to interfere with their sun.

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 () He's doing it to comply with codes and to help out with handicapped accessibility.

All in favor. Motion to approve passed.

Roberta Chelberg, 5306 100th Ave SE, Clear Lake, Mn apologized for being late to the meeting.

Waytashek informed her the new owners were present and the variances got approved.

7:32 P.M. Nelson motioned and Demeules seconded to adjourn. Motion carried. Meeting adjourned.

Submitted by:
Kelly Mittelstaedt, Secretary

