

# LE SUEUR COUNTY BOARD OF ADJUSTMENT

Mailing Address: 88 SOUTH PARK AVE  
Physical Address: 515 SOUTH MAPLE AVE  
LE CENTER, MINNESOTA 56057

**July 15, 2021**

**MEMBERS PRESENT:** Colin Harris, Jeanne Doheny, Jim Mladek, John Wolf, & Roy McIntyre

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Aaron Stubbs, Michelle Mettler

1. **Call to Order:** 3:00 p.m. by Chairperson Jeanne Doheny.
2. **Agenda:** Additions/Corrections:
  - a. **Added the Review of the July 1, 2021 Special Meeting Minutes.**
  - b. **Item #2 (Todd) – Should have been noticed as an After-the-Fact Request.**  
Motion to approve agenda by JOHN WOLF. Seconded by ROY MCINTYRE.  
MOTION APPROVED. MOTION CARRIED.
3. **Minutes: June 17, 2021,** Additions/Corrections: NONE.  
Motion to approve minutes by ROY MCINTYRE. Seconded by COLIN HARRIS.  
MOTION APPROVED. MOTION CARRIED.  
  
**July 1, 2021,** Additions / Corrections: NONE.  
Motion to approve minutes by JOHN WOLF. Seconded by JIM MLADEK.  
MOTION APPROVED. MOTION CARRIED.

#### 4. Applications:

**ITEM #1: ARLEN & JUDY MAULAND, CLEVELAND, MN, (APPLICANT/OWNER):** Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to enlarge a nonconforming structure with an attached garage and breezeway 52 feet from the road Right-Of-Way (ROW) and 50 feet from the Ordinary High Water Level (OHWL); 25.6% total impervious surface coverage on the lot in a Recreational Residential "RR" Shoreland District, Lake Jefferson a Recreational Development "RD" lake. Property is located at Lots 51 & 52, Tomahawk Point, Section 4, Washington Township. **VARIANCE IS FOR ROAD ROW AND OHWL SETBACKS. APPLICATION WAS POSTPONED FROM THE JUNE 17, 2021 MEETING.**

ARLEN & JUDY MAULAND were present for application.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Additional Variance Component:** The staff Report included an additional component to the Variance request which reduced the required side yard setback from 15' to 10'. **Site Visit:** The applicant was informed that the Board of Adjustment conducted a Site Visit and reviewed the proposal.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
2. *The alleged Practical Difficulty is unique to the property.*
  - a. ***The request matches neighboring properties.***
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*
  - a. ***It'll fit in with the other properties.***
  - b. ***Matches similar structures in the neighborhood.***
5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*

**Motion was made by JOHN WOLF to approve the application as written.**

**Second by ROY MCINTYRE. MOTION APPROVED. MOTION CARRIED.**

**ITEM #2: GABRIELLE LEWIS, MN PERMITS, BURNSVILLE, MN, (APPLICANT); ANN TODD, CLEVELAND, MN, (OWNER):** Request that the County grant an After-The-Fact Variance from the Le Sueur County Zoning Ordinance to allow the applicant to install roof-mount solar panels 22 feet from the OHWL on a nonconforming structure in a Recreational Residential "RR" Shoreland District, German Lake a Recreational Development "RD" lake. Property is located at Lots 6 & 7 Beaver Dam, Section 5, Elysian Township. **VARIANCE IS FOR OHWL SETBACK. APPLICATION WAS TABLED AT THE JUNE 17, 2021 MEETING.**

CHAD PRIESTLY & ANN TODD were present for application.

- Ms. Todd stated that her residence was the first project the installation company had worked on in a Shoreland area. They were unaware that any Variances would be required. By the time the need for a Variance was identified, the panels were already installed.
- Staff stated that the structure where the panels were installed is a Legal Non-Conforming structure. The installation of the panels represents an expansion of that structure and therefore triggers the need for a Variance.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Non-Conforming Structures:** The applicant was assured that they were not the first person who did not realize the expansion of a Non-Conforming structure required a Variance. They were encouraged to call the Environmental Services Department prior to doing any future improvements to their property.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
  - a. ***Please make sure you check with the Department before any future work is started.***
2. *The alleged Practical Difficulty is unique to the property.*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*
  - a. ***Does not change the outside appearance at all.***
5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The applicant / landowner acted in good faith to obtain a Variance or comply with the applicable requirements prior to commencing the work.*
  - a. ***After they were aware of the situation.***
  - b. ***Should have checked with the County first. Solar is still new to the County and they should have checked with the Department first.***
  - c. ***Initially no, but they did comply after they were aware of the issue.***
7. *The applicant / owner did not attempt to comply with the Zoning Ordinance by obtaining permits prior to commencing the work.*
  - a. ***The applicant / landowner did not know they needed a Variance.***
  - b. ***Lack of knowledge is an excuse and not a legitimate reason.***
8. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
9. *The Variance is consistent with the Comprehensive Plan.*

**Motion was made by JIM MLADEK to approve the application as written.**

**Second by COLIN HARRIS. MOTION APPROVED. MOTION CARRIED.**

**ITEM #3: GREG GUHLKE, MANKATO, MN, (APPLICANT/OWNER):** Requests that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a cabin 38 feet from the road Right-Of-Way (ROW) in a Recreational Residential "RR" Shoreland District, Lake Francis a Recreational Development "RD" lake. Property is located at Lot 19, Clarks Beach, Section 34, Elysian Township. **VARIANCE IS FOR ROAD ROW SETBACK. APPLICATION WAS TABLED AT THE JUNE 17, 2021 MEETING.**

GREG GUHLKE was present for application.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: None

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
2. *The alleged Practical Difficulty is unique to the property.*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*

5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
  - a. *Moving the structure out of the Shore Impact Zone better aligns with the County's Goals and Objectives.*
7. *The Variance is consistent with the Comprehensive Plan.*

**Motion was made by JOHN WOLF to approve the application as written.**

**Second by ROY MCINTYRE. MOTION APPROVED. MOTION CARRIED.**

**ITEM #4: BRAD BRAUN, (APPLICANT/OWNER):** Requests that the County grant an After-The-Fact Variance from the Le Sueur County Zoning Ordinance to allow the applicant 29.8 % total impervious surface coverage on a lot, to construct a new attached garage and dwelling addition 5 feet from property line and 11 feet from road Right-Of-Way (ROW) in a Recreational Residential "RR" Shoreland District, Lake Washington a Recreational Development "RD" lake. Property is located at Lot 36, Baker Bay, Section 12, Kasota Township. **VARIANCE IS FOR IMPERVIOUS SURFACE, PROPERTY LINE AND ROAD ROW SETBACKS. APPLICATION WAS TABLED AT THE JUNE 17, 2021 MEETING.**

BRAD BRAUN was present for application.

- Project has been in development stages for 9 years. The property has been in the family since the late 60's. The plan is to convert the existing structure into the applicant's "forever" home.
- The previous placement of a culvert did not allow a garage to be built. Mr. Braun has been working to have the culvert relocated by the Lake Association.
- Mr. Braun has considered several different development options but the location of various items (grinder station, well, existing structure, etc.) has limited the feasibility of future expansion to the plan that has been submitted.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Gutters:** The applicant was asked if he was willing to install rain gutters and rain barrels to ensure the reduced setback does not negatively impact the neighboring property. Mr. Braun stated that he was willing to do that. He does not want standing water on the property and also does not want to negatively impact his neighbors. **Proximity to the neighbor:** Applicant was informed that if the runoff is not managed properly he could flood out his neighbor. Mr. Braun stated that he is aware and in planning to take the appropriate steps to minimize the negative impacts to the area. **Environmental Resources Specialist:** The applicant was asked if he had spoken with the County's Environmental Resources Specialist. Mr. Braun stated that he had been working with Ms. Kalbus throughout the process. He also stated that he was interested in developing rain gardens on the property and would continue to consult with Ms. Kalbus throughout the process. **Recommended Condition:** Staff reminded the Board of Adjustment that the staff report contained a recommended condition requiring the applicant to work with staff to develop a maintenance plan for converting the driveway to a pervious surface.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
2. *The alleged Practical Difficulty is unique to the property.*

3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*
  - a. ***Would be in-line with other structure in the area.***
  - b. ***As long as the water concerns are addressed.***
5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The applicant / landowner acted in good faith to obtain a Variance or comply with the applicable requirements prior to commencing the work.*
7. *The applicant / owner did attempt to comply with the Zoning Ordinance by obtaining permits prior to commencing the work.*
  - a. ***Also took into consideration runoff and what needs to be done to protect the property.***
8. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
9. *The Variance is consistent with the Comprehensive Plan.*
  - a. ***Reducing impervious surface by approx. 10% is great.***

**Motion was made by JOHN WOLF to approve the application with the proposed conditions included in the staff report.**

**Second by ROY MCINTYRE. MOTION APPROVED. MOTION CARRIED.**

**ITEM #5: TOM OAK, LE CENTER, MN, (APPLICANT/OWNER):** Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a single-family dwelling with an attached garage 26 feet from the road Right-Of-Way (ROW) and 73 feet from the Ordinary High Water Level (OHWL) in a Recreational Residential "RR" Shoreland District, and a Flood Fringe "FF" Floodplain Overlay District, Lake Tetonka a Recreational Development "RD" lake. Property is located at Lot 30, North Shore Subdivision #2, Section 18, Waterville Township.  
**VARIANCE IS FOR ROAD ROW AND OWHL SETBACKS.**

TOM OAK was present for application.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Additional Property:** It was stated that the Board of Adjustment believes the addition of the parcel to the west, really helps with impervious surface coverage.  
**Construction Timeline:** The applicant was asked what their timeline was for construction. Mr. Oak stated that his intention is to construct in fall of 2021 but that will depend on material prices and availability.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
  - a. ***Will fit in with the neighboring structures.***
  - b. ***It will improve the area.***
  - c. ***Make sure you manage the stormwater properly.***
2. *The alleged Practical Difficulty is unique to the property.*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*

4. *The issuance of the Variance will maintain the essential character of the locality.*
  - a. ***The new structure will improve the locality.***
  - b. ***Would be an enhancement to the area.***
5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*
  - a. ***Keeping the impervious surface coverage to less than 25% is important.***

**Motion was made by ROY MCINTYRE to approve the application as written.**

**Second by JOHN WOLF. MOTION APPROVED. MOTION CARRIED.**

**ITEM #6: MARGO & JACK MAUSER, CLEVELAND, MN, (APPLICANT/OWNER):** Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a septic system drainfield 0 feet from the road Right-Of-Way (ROW) in a Recreational Residential "RR" Shoreland District, Lake Jefferson a Recreational Development "RD" lake. Property is located in Government Lot 1, Section 35, Cleveland Township. **VARIANCE IS FOR ROAD ROW SETBACK.**

JACK MAUSER was present for application.

- The applicant stated that he purchased the property in 2004. Did not know the septic system failed. The location of the road, lake, and applicable setbacks do not leave enough room to install a new system without a variance.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Additional Soil:** The applicant was asked if he received approval from the road authority to bring in extra dirt. Mr. Mauser stated that he had received approval for the project. **Protection of the lake:** It was stated that this project needed to be completed to ensure the nearby lake was not negatively impacted.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
  - a. ***This project would be a major improvement to the property.***
  - b. ***Also a required project.***
2. *The alleged Practical Difficulty is unique to the property.*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*
  - a. ***Project would be an improvement.***
  - b. ***Project protects the lake and the subject property.***
5. *The alleged Practical Difficulty involves more than economic considerations.*
  - a. ***This is a necessity.***
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*

7. *The Variance is consistent with the Comprehensive Plan.*

**Motion was made by ROY MCINTYRE to approve the application as written.**

**Second by COLIN HARRIS. MOTION APPROVED. MOTION CARRIED.**

**ITEM #7: MARK CONSOER, KASOTA, MN, (APPLICANT\OWNER):** Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant 55.13 % total impervious surface coverage on a lot in a Recreational Residential “RR” Shoreland District, Lake Washington a Recreational Development “RD” lake. Property is located at Lots 26 & 27, Baker Bay, Section 12, Kasota Township. **VARIANCE IS FOR IMPERVIOUS SURFACE.**

MARK CONSOER was present for application.

- Mr. Consoer stated that he had no idea the proposed repair would trigger the need for a Variance. The purpose of the request is to facilitate foundation repair to the residential structure on the subject parcel.
- Mr. Consoer highlighted a discrepancy in the staff report.
- Mr. Consoer discussed the proposed condition related to the restoration of a grass parking area. He was not sure how that area was counted as impervious. He is willing to restore the area but was unsure how to start growing grass because that area is part of the old roadbed.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Proposed Conditions:** The applicant was informed that the conditions listed in the staff report are proposed and final conditions are enacted by the Board of Adjustment. **Reduction of Impervious Surface:** The applicant stated he was willing to reduce the amount of impervious surface coverage throughout his Lot. He is willing to reduce impervious surfaces, but his priority is to repair the foundation within the next month. **Ground Area below the Deck:** The applicant was asked how he intended to protect the bare ground below the deck once the project commences. Mr. Consoer explained the process his contractor would follow and stated that they were developing an erosion control plan for the project.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
2. *The alleged Practical Difficulty is unique to the property.*
  - a. ***Maintenance issue that needs to be addressed to save the structure.***
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*
5. *The alleged Practical Difficulty involves more than economic considerations.*
  - a. ***It is structural.***
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
  - a. ***Need to stop the deterioration on the side of the building.***

b. *Variance is for impervious surface, not the repair of the structure.*

7. *The Variance is consistent with the Comprehensive Plan.*

**Motion was made by JOHN WOLF to approve the application as written.**

**Second by JIM MLADEK. MOTION APPROVED. MOTION CARRIED.**

**ITEM #8: ROGER & CAROL JEAN BAUER, LE CENTER, MN, (APPLICANT\OWNER):**  
Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant 28.3% impervious surface coverage on the lot in a Recreational Residential "RR" Shoreland District, Lake Volney, a Recreational Development "RD" lake. Property is located at Lots 14 & 15 Elwood Subdivision, Section 36, Lexington Township.  
**VARIANCE IS FOR IMPERVIOUS SURFACE**

ROGER & CAROL BAUER were present for application.

- Purchased the property in 2013. The 6' wall was starting to deteriorate. The applicants have installed three small rain gardens to help manage stormwater. They have re-seeded the yard and had some tile installed to further manage runoff. They have removed stairs and other impervious surfaces to improve the continuity. While reviewing the project with Environmental Services staff, they were informed that had too much impervious surface coverage.
- They are not going to put stairs back on the deck.
- They planted vegetation to try and reduce runoff.
- Tile will be routed to rain gardens, not towards the lake.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

PUBLIC CORRESPONDENCE: None

PUBLIC COMMENT: None

Discussion was held regarding: **Height of the Retaining Wall:** The applicant was asked how tall his proposed retaining wall would be. Mr. Bauer stated that his wall be 4' in height. He also stated that he asked his contractor about using boulders instead of the wall. His contractor informed him that boulders are hard to come by, and the wall would be his most affordable option. **Environmental Resources Specialist:** The applicants stated that they spoke with the County's Environmental Resources Specialist to identify plants that could be incorporated within the project. **CUP Required:** Staff informed the Board of Adjustment that this request was related to impervious surface coverage and the construction of the proposed retaining walls would still require a Conditional Use Permit Access to the Lake: The applicants were asked how the plan on accessing the lake. Mrs. Bauer stated that they walk around the side of the property due to the existing topography. **Time Frame:** The applicants were asked what their timeline for construction was. Mr. Bauer stated that the original goal was February 2021 but now it would be based on the contractor's availability and the CUP approval.

**FINDINGS BY MAJORITY VOTE:**

1. *The property owner is proposing to use the property in a reasonable manner.*
  - a. *Need to address the erosion problem to save the property.*
  - b. *Taking down the shed will also help with impervious surface coverage.*
2. *The alleged Practical Difficulty is unique to the property.*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner.*
4. *The issuance of the Variance will maintain the essential character of the locality.*



- a. *Would be a major improvement.*
5. *The alleged Practical Difficulty involves more than economic considerations.*
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*
  - a. *This is a good faith effort to improve the erosion issue.*

**Motion was made by ROY MCINTYRE to approve the application as written.**

**Second by JIM MLADEK. MOTION APPROVED. MOTION CARRIED.**

**5. Discussion Items:**

- At least one application on the August BOA Agenda.
- Member Mladek stated that he would most likely not be attending the August 19, 2021 Board of Adjustment Meeting.

**6. Warrants/Claim-signatures:**

**7. Adjournment:**

**Motion to adjourn meeting by COLIN HARRIS. Second by JIM MLADEK. Motion approved. Motion carried.**

Respectfully submitted,

**Aaron Stubbs**

*Recording of the meeting is on file in the  
Le Sueur County Environmental Services Office*