

**LE SUEUR COUNTY
BOARD OF ADJUSTMENT**

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

May 19, 2022

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

MEMBERS ABSENT: Colin Harris

STAFF PRESENT: Aaron Stubbs

1. **Call to Order:** 3:00 p.m. by Chairperson Jeanne Doheny.

2. **Agenda:** **May 19, 2022**, Additions/Corrections: NONE.
Motion to approve the agenda by **ROY MCINTYRE**.
Seconded by **JOHN WOLF**.
MOTION APPROVED. MOTION CARRIED.

3. **Minutes:** **April 21, 2022**, Additions/Corrections: NONE.
Motion to approve the agenda by **JIM MLADEK**.
Seconded by **JOHN WOLF**.
MOTION APPROVED. MOTION CARRIED.

4. **Applications:**

ITEM #1: CHAD & SUNNI NEEGAARD, WALDORF, MN, (APPLICANT\OWNER): Request that the County grant an extension to Variance # 2021028 from the Le Sueur County Zoning Ordinance to allow the applicant a reduced parking area; Replace/repair an existing deck and porch 7 feet from the property line and 31 feet from the Ordinary High Water Level (OHWL); Construct a shed 5 feet from the property line, 14 feet from the road Right-Of-Way (ROW), and 70 feet from the 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 in Government Lot 3, Section 19, Waterville Township.
VARIANCE IS FOR PROPERTY LINE, ROAD ROW, OHWL SETBACKS, & PARKING AREA.

AARON STUBBS was present for applicants.

TOWNSHIP: Not required for time extension request.

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: None.

Mr. Stubbs informed the Board of Adjustment of an error made by County staff in notifying the Neegaard's of the May Board of Adjustment meeting. After realizing the applicants were not present for the May 19, 2022 meeting. A short recess was taken and the applicants were contacted by staff. It was discovered that staff sent an email to the applicants which incorrectly listed the date of the May Board of Adjustment meeting. Rather than tabling the request, staff asked Mrs. Neegaard if the request could move forward with staff acting as a representative for the applicants. Mrs. Neegaard agreed.

Discussion was held regarding: **Need for the time extension:** In their application, the applicant stated when they the project had fallen behind schedule due to material and workforce shortages. They are currently 65% complete and wanted to ensure they had adequate time to finish.

Motion was made by ROY MCINTYRE to APPROVE the request for a time extension for Variance #2021028 (approved on April 22, 2021). The new deadline for completion is April 22, 2023.

Second by JIM MLADEK.

MOTION APPROVED. MOTION CARRIED.

ITEM #2: MIKE KRAL, NEW ULM, MN, (APPLICANT\OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to reduce the road Right-Of-Way (ROW) setback from 65 feet to 16 feet for the construction of a dwelling with an attached garage; Increase the total impervious surface coverage from a maximum of 25% to 31.7% in a Recreational Residential “RR” Shoreland District, Lake Washington, a Recreational Development “RD” lake. Property is located in Baker Bay Subdivision, Lot 8, Section 12, Kasota Township.
VARIANCE IS FOR ROAD ROW SETBACK, AND IMPERVIOUS SURFACE.
APPLICATION WAS TABLED AT THE APRIL 21, 2022 MEETING.

MIKE KRAL was present for application.

TOWNSHIP: Notified on February 25, 2022. Comments Received on April 11, 2022 – Township was in support of the request provided the proposed structure did not encroach on the road further than the neighboring structures.

DNR: Notified – No Comments

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: None

Discussion was held regarding: **Revision made to the project and the request:** The applicant stated in the time since the previous meeting, he had worked with staff and his contractor to amend his previous plan. The house, deck, and attached garage were all reduced in size so the entire structure could be moved outside of the Shore Impact Zone. In doing this, the request was amended to improve the component related to impervious surface coverage from 34.2% to 31.7%.

FINDINGS BY MAJORITY VOTE:

1. *The property owner is proposing to use the property in a reasonable manner.*
 - ***This is an improvement from the previous request.***
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.*
 - ***Now that the plan has been revised.***
7. *The Variance is consistent with the Comprehensive Plan.*
 - ***Now that the plan has been revised.***

Motion was made by JOHN WOLF to APPROVE the request for a time extension for Variance #2021031 (approved on April 27, 2021). The new deadline for completion is April 27, 2023.

Second by ROY MCINTYRE.

MOTION APPROVED. MOTION CARRIED.

ITEM #3: JAMIE JANSEN, BLOOMINGTON, MN, (APPLICANT\OWNER): Request that the County grant an After-The-Fact multi-component Variance from the Le Sueur County Zoning Ordinance to allow the applicant to reduce the front yard setback from 65 feet to 37 feet from the road Right-Of-Way (ROW), reduce the side yard setback from 10 feet to 6 feet to the property line to accommodate an accessory structure; Increased structure peak height from 15 feet to 20 feet, reduced required lot area from 40,000 square feet to 14,928 square feet and reduced required lot width from 150 feet to 50 feet to accommodate a future guest cottage in a Recreational Residential "RR" Shoreland District, Lake Jefferson, a Recreational Development "RD" lake. Property is located in Roemer's Cove Subdivision, Lot 16, Section 7, Elysian Township.
ATF VARIANCE IS FOR ROAD ROW AND PROPERTY LINE SETBACKS, PEAK HEIGHT, LOT AREA, AND LOT WIDTH.

JAMIE JANSEN was present for application.

TOWNSHIP: Notified on April 15, 2022. Response: None

DNR: Notified – No Comments

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: Joe Longbottom stated he had concerns with how densely developed the area is currently and also concerned with the proposed variance setting a precedent for future requests.

Discussion was held regarding: **Structure Height:** The Board of Adjustment expressed concerns with how tall the existing structure is. Several of the member stated the existing structure looked out of place a disproportionate versus the rest of the neighborhood. The applicant was asked if he would be willing to reduce the height if required, he stated he was willing to reduce or even remove the structure if that was required. **Sight Lines:** The applicant asked the Board for specific issues with regard to the height. They stated the structure was much taller than any other structure in the neighborhood and when constructed on a built up area, on the highest point of the property, it appeared to be much taller than a five-foot increase. **Need for an After-the-Fact Variance:** The applicant was asked to explain the situation leading up to the ATF Variance request and what steps he took to determine the appropriate course of action. Mr. Jansen stated he lived in the City of Bloomington so when they purchased this property, he assumed all permits came from the City of Elysian. He stated he contacted the City several times and never received a call back. As the cost of materials continued to increase, he decided to purchase the material without ever speaking to someone from the City. When he experienced difficulty securing a contractor, the decision was made to begin construction without a permit. He assumed because he had never been contacted, he did not need approval.

FINDINGS BY MAJORITY VOTE:

1. *The property owner is proposing to use the property in a reasonable manner. (4-0)*
 - **Agree that all components other than the height request meet this standard.**
2. *The alleged Practical Difficulty is unique to the property. (4-0)*
 - **All the lots in this area are smaller than what is currently required.**
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner. (4-0)*
 - **Circumstances were created by the original plat.**
4. *The issuance of the Variance will maintain the essential character of the locality. (3-1 – Member Doheny in opposition of this finding)*
 - **Agree that all components other than the height request meet this standard.**
5. *The alleged Practical Difficulty involves more than economic considerations. (4-0)*
6. *Did the applicant act in good faith to obtain a Variance or comply with the applicable requirements prior to commencing the work? (1-3 – Member Mladek being in support of this finding)*

- *The applicant started the work without a permit.*
7. *Did the applicant attempt to comply with the Ordinance by obtaining the proper permits prior to commencing the work? (0-4)*
 8. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Zoning Ordinance. (3-1 – Member Doheny in opposition)*
 - *Agree that all components other than the height request meet this standard.*
 - *Lots were not designed for this amount of structure coverage.*
 9. *The Variance is consistent with the Comprehensive Plan. (3-1 – Member Doheny in opposition of this finding)*
 - *Agree that all components other than the height request meet this standard.*

Motion was made by JOHN WOLF to APPROVE the following components: Reduced front yard setback from 65’ to 37’, reduced side yard Setback from 10’ to 6’, reduced Lot Area to 14,928 ft², and reduce Lot Width to 50’ and to DENY the request to increase the Structure Height from 15’ to 20’. The components that were approved included the proposed conditions listed in the staff report.

Second by ROY MCINTYRE.

MOTION APPROVED. MOTION CARRIED.

ITEM #4: JAMES KALINA, MANKATO, MN, (APPLICANT); JAMES & JANENE KALINA, MANKAOT MN, (OWNER): Request that the County grant an After-The-Fact Variance from the Le Sueur County Zoning Ordinance to allow the applicant to reduce the setback to the Ordinary High Water Level (OHWL) from 100 feet to 90 feet, reduce the side yard property line setback from 10 feet to 2 feet, reduce the septic tank setback from 10 feet to 6 feet to accommodate an accessory structure; Increase the total impervious surface coverage from a maximum of 25% to 33% in a Recreational Residential “RR” Shoreland District, Lake Jefferson, a Recreational Development “RD” lake. Property is located in Geldner’s Unrecorded Plat, Lot 23, Section 6, Elysian Township.
VARIANCE IS FOR OHWL, PROPERTY LINE, AND SEPTIC SETBACKS, AND IMPERVIOUS SURFACE.

JAMES KALINA was present for application.

TOWNSHIP: Notified on April 11, 2022. Response: None

DNR: Notified. RESPONSE: None.

PUBLIC CORRESPONDENCE:

Email – Tom & Shari Koenig in support of the request (read into the record).

Email – Dave Tripp (Geldner’s Addition Association Variance Committee) informing Le Sueur County of the GAA’s functions (read into the record).

Email – Bill John (President, GAA) informing Le Sueur County the GAA communicates the permit and variance process to all landowners in their neighborhood association. (read into the record)

PUBLIC COMMENT: Jean Burns (neighbor to the west) stated the following concerns with the request:

1. The structure could have been placed 10’ closer to the road and eliminated the need for an OHWL setback reduction.
2. The reduced side yard setback could result in a negative impact to her property. She is concerned with stormwater runoff creating issues to the west.
3. The reduced setback to the SSTS Tank could be eliminated by relocating the structure closer to the road.
4. The need for an increase in impervious surface should not be allowed. Mrs. Burns stated the applicant was given a variance in the past related to their not knowing the rules for permits and variances, this same excuse should not be rewarded again.

In closing Mrs. Burns stated if the variance were to be granted, it would send the message that it is ok to do what you want and ask for forgiveness later.

Discussion was held regarding: **Previous ATF Variance:** The applicant stated he believed his contractor for the deck applied for the necessary permits. Mr. Kalina also stated his contractor did not believe they needed additional permits to build after the variance was approved. **Pervious Surface:** The Board asked the applicant why he was only proposing a small portion of parking to be pervious. Mr. Kalina stated he was willing to continue the GeoGrid throughout the property and eliminate all proposed concrete. **Stormwater Runoff:** The applicant was asked how he planned to manage his stormwater. He stated he was willing to install rain gutters but admitted he did not know where his current gutters outlet. **Shed Placement:** The applicant was asked why he chose the current location for his shed. Mr. Kalina stated he believed the current location was a better use of the property. He also stated he thought he was improving the situation by moving the structure further from the road than the previous shed. **Tabling the Request:** The Board of Adjustment had discussions about giving the applicant more time to improve his request. They stated they wanted to see a revised plan that eliminated all concrete and replaced it with a pervious solution. In addition, they wanted the applicant to work with Environmental Services staff to develop a plan to manage the stormwater and mitigate the concerns of the neighbors. The applicant stated he was willing to explore other options.

Motion was made by JIM MLADEK to TABLE the application.

Second by JOHN WOLF.

MOTION APPROVED. MOTION CARRIED.

ITEM #5: JOSHUA SMITH, KILKENNY, MN, (APPLICANT\OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to reduce the setback from a Township Road Right-Of-Way (ROW) from 65 feet to 32 feet to accommodate a new single-family dwelling in a Special Protection "SP" Shoreland District, Gorman Lake, a Recreational Development "RD" lake. Property is located in the SW 1/4 of the NE 1/4, Section 13, Cordova Township.
VARIANCE IS FOR ROAD ROW SETBACK.

Joshua Smith was present for application.

TOWNSHIP: Notified on April 20, 2022. Response: The applicant attended a Town Board meeting and discussed his proposal. The Cordova Town Board supports the variance request with no additional conditions being requested by Cordova Township.

DNR: Notified. RESPONSE: None.

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: None.

Discussion was held regarding: **Location Selection:** The applicant was asked to discuss the thought process behind selecting the proposed location. Mr. Smith stated he had met previously with his septic contractor and the County's Septic Inspector. During that meeting the determined where the best soils were on the property to support the new septic system. Once they knew that location, the decision was made to place the house between the proposed septic location and the existing well. **Existing Well:** The applicant stated he had the existing well flushed and tested. The well appears to be usable and in good shape. **Timeframe for Construction:** The applicant stated he most of the building material on site and waiting for approval to start construction. He also stated, weather dependent, he thought the house would be up by late August of 2022.

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.*
 - *The site will continue to be residential as it has for many years, the layout appears to protect nearby sensitive features.*
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 with the proposed conditions listed in the staff report.

Second by ROY MCINTYRE.

MOTION APPROVED. MOTION CARRIED.

5. Discussion Items:

- There may be six or seven applications on the June agenda.
- June deadline was May 17, 2022
- Roy will not be present during the June 16, 2022 Board of Adjustment

6. Warrants/Claim-signatures:

7. Adjournment:

Motion to adjourn meeting by JOHN WOLF.

Second by ROY MCINTYRE.

Motion approved. Motion carried.

Respectfully submitted,

Aaron Stubbs

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