

**LE SUEUR COUNTY
BOARD OF ADJUSTMENT**

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

December 15, 2022

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

MEMBERS ABSENT: None

STAFF PRESENT: Aaron Stubbs

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

2. **Agenda: December 15, 2022,**
Additions/Corrections: NONE.
Motion to approve the agenda with the above listed correction by **JOHN WOLF**.
Seconded by **ROY MCINTYRE**.
MOTION APPROVED. MOTION CARRIED.

3. **Minutes: November 17, 2022,**
Additions/Corrections: NONE.
Motion to approve the agenda by **JIM MLADEK**.
Seconded by **COLIN HARRIS**.
MOTION APPROVED. MOTION CARRIED.

4. **Applications:**

ITEM #1: DIANNA KRAUTBAUER, JANESVILLE, MN, (APPLICANT\OWNER): Request that the County grant an After-The-Fact Variance from the Le Sueur County Zoning Ordinance to reduce the Ordinary High Water Level (OHWL) setback for an accessory structure from 100 feet to 93 feet; Reduce the side yard setback for a replacement storage shed from 10 feet to 5 feet; and 30.5% total impervious surface coverage of a lot in a Recreational Residential "RR" Shoreland District of Lake Francis, a Recreational Development "RD" lake. The property is described as Lot 20, Block 1, of Clark's Beach Subdivision, located in Section 34, Elysian Township.
ATF VARIANCE IS FOR IMPERVIOUS SURFACE, OHWL & LOT LINE SETBACKS.
APPLICATION WAS TABLED AT THE AUGUST 18, 2022 AND OCTOBER 20, 2022 MEETINGS.

AARON STUBBS was present for application.

Mr. Stubbs informed the Board members the applicant contacted him earlier in the day and stated she was sick and unable to attend today's meeting. Mr. Stubbs asked the applicant if she would allow him to represent her at the meeting and discuss her revised proposal with the Board. Ms. Krautbauer agreed.

TOWNSHIP: Notified on July 1, 2022 – NO COMMENTS RECEIVED

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: None.

Discussion was held regarding the applicant's revised plans. Mr. Stubbs stated he and the applicant met in November to discuss the revised request. During that meeting, Mr. Stubbs contacted Mike Shultz from the SWCD to discuss a possible exemption that would allow the applicant to move her gravel parking area across the street. Mr. Shultz stated the applicant could apply for a De Minimis Exemption that would allow her to create 400 sq. ft. of impact to wetlands on the south side of the road. This would allow the applicant to remove the 630+ sq. ft. of gravel on the north side of the road. Mr. Stubbs also informed the Board that a portion of Wood Duck Lane is on the applicant's property and included in the impervious surface calculations. Staff missed this in their previous review; it should not have counted against Ms. Krautbauer. The applicant has also agreed to remove the pavers from the neighbor's property and completely remove the gazebo from her property. Mr. Stubbs informed the Board he and the applicant considered several different locations for the existing shed. Unfortunately, the presence of wetlands to the south, the location of the main entrance to the cabin, and the location of an existing sewer line severely limit potential locations for the shed. Mr. Stubbs stated the proposed location is the best available, provided all other conditions are met.

ADDITIONAL COMMENTS FROM THE BOARD OF ADJUSTMENT:

Mladek – Asked if the applicant was aware of the proposed conditions. Mr. Stubbs stated he and the applicant discussed the possible conditions when they met in November to revise the plan.

McIntyre – Stated getting the items off the neighbor's property would be a great improvement.

STANDARD VARIANCE FINDINGS BY MAJORITY VOTE:

1. *The request is in harmony with the general purpose and intent of the official control. (5-0)*
 - ***If the applicant were to follow the proposed conditions, the request meets this standard.***
2. *The request is consistent with the comprehensive plan. (5-0)*
3. *The property owner is proposing to use the property in a reasonable manner, not permitted by an official control. (5-0)*
4. *The plight of the landowner is due to circumstances unique to the property, not created by the landowner. (5-0)*
5. *Whether the variance would alter the essential character of the locality. (5-0)*
 - ***Would be an improvement to the area by reducing the impervious surface coverage and increasing the current side yard setback.***
6. *Whether the request for the variance involves more than economic considerations. (5-0)*

AFTER-THE-FACT VARIANCE FINDINGS BY MAJORITY VOTE:

1. *Whether the landowner acted in good faith or attempted to comply with the Zoning Ordinance. (0-5)*
2. *Whether the landowner attempted to comply with the Ordinance by obtaining the proper permits prior to commencing work. (0-5)*

Mr. Stubbs informed the Board that although the request failed to meet the After-the-Fact criteria, the Board could weigh those items prior to making a decision. Because the request met the requirements for a standard variance, it could still be approved.

Motion was made by COLIN HARRIS to APPROVE the application with the proposed conditions listed in the staff report, and adding one condition requiring the applicant to meet with Environmental Services staff to create a schedule for follow-up inspections and a timeline for completion of the entire project.

Second by ROY MCINTYRE.

MOTION APPROVED. MOTION CARRIED.

ITEM #2: MATT JOHNSON, MENDOTA, MN (APPLICANT); MATTHEW J. JOHNSON TRUST, MENDOTA, MN, MN (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to

allow the applicant to reduce the required setback from the OHWL of a Recreational Development lake from 75' to 58', and reduce the required setback from a structure from 20' to 8' to accommodate the installation of a new SSTS Absorption Area, and also reduce the required setback from the OHWL of a Recreational Development lake from 75' to 70', and reduce the required setback from a structure from 10' to 7' to accommodate the installation of a new SSTS Tank in a Recreational Residential "RR" Shoreland District of Lake Tetonka, a Recreational Development "RD" lake. The property is described as Lots 26 & 27, Block 1, of the Tetonka Beach Subdivision, located in Section 24, Elysian Township. **VARIANCE IS FOR OHWL AND STRUCTURE SETBACKS.**

WAYNE JAMES was present for application.

TOWNSHIP: Notified on November 19, 2022 – NO COMMENTS RECEIVED

PUBLIC CORRESPONDENCE: None.

PUBLIC COMMENT: None.

Discussion was held regarding: **SSTS Location:** Mr. James stated the proposed location was the best available option due to neighboring wells. He also stated they had worked with the surveyor to try to position the septic in a few different locations prior to applying for the variance

ADDITIONAL COMMENTS FROM THE BOARD OF ADJUSTMENT:

Wolf – Asked if this would be the last system to be upgraded on this road. Mr. James stated he knew the neighboring properties were compliant, but would have to check his records before he could comment on all the homes along Sportsman's Lane.

There were no additional questions or comments from the Board of Adjustment.

FINDINGS BY MAJORITY VOTE:

1. *The property owner is proposing to use the property in a reasonable manner. (5-0)*
2. *The alleged Practical Difficulty is unique to the property. (5-0)*
3. *The circumstances creating the Practical Difficulty were created by someone other than the landowner. (5-0)*
4. *The issuance of the Variance will maintain the essential character of the locality. (5-0)*
5. *The alleged Practical Difficulty involves more than economic considerations. (5-0)*
6. *The Variance is consistent with and supported by the Statement of Purposes, Policies, Goals and Objectives in the Ordinance. (5-0)*
7. *The Variance is consistent with the Comprehensive Plan. (5-0)*

Motion was made by JIM MLADEK to APPROVE the application with the proposed conditions listed in the staff report.

Second by JOHN WOLF.

MOTION APPROVED. MOTION CARRIED.

5. Discussion Items:

- BOA By-Laws
 - Staff and the Board of Adjustment reviewed the draft By-Laws.

- A few minor changes were made, and all members were in agreement with the By-Laws.
- Currently there are no applications on the January agenda.
 - January deadline is December 20, 2022
- New Commissioner from District 4
 - Member McIntyre stated he would contact the new Commissioner and see if the Commissioner wanted him to continue on the 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*