

LE SUEUR COUNTY BOARD OF ADJUSTMENT

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

May 21, 2020

MEMBERS PRESENT: Jeanne Doheny, Jim Mladek, Roy McIntyre

MEMBERS ABSENT: Colin Harris, John Wolf

OTHERS PRESENT: Joshua Mankowski

1. **Call to Order** at 3:00 p.m. by Chairperson Jeanne Doheny.
2. **Agenda:** Additions/Corrections: Item #1 Steven & Karen Theissen Request is for 25.2% Impervious Surface, not 27.1%. Item #2 Kenneth & Ranae Firlie have withdrawn their application. Item #3 Larry & Julie Nitzsche-Variance for ROW setback of 40.8' for a garage addition. Motion to approve agenda by Roy McIntyre. Seconded by Jim Mladek. Motion approved via roll call vote 3-0. Motion carried.
3. **Meeting Minutes:** April 16, 2020 Additions/Corrections: None. Motion to approve minutes by Jim Mladek. Seconded by Roy McIntyre. Motion approved via roll call vote 3-0. Motion carried.
4. **Applications:**

ITEM #1: STEVE & KAREN THEISSEN, WATERVILLE, MN, (APPLICANT/OWNER):

Request that the County grant an After-The-Fact Variance from the Le Sueur County Zoning Ordinance to allow a total of 25.2 % impervious surface coverage; creating impervious surface within the bluff; and proposed rip rap width of 13 feet in a Recreational Residential "RR" District and a Flood Fringe "FF" Floodplain Overlay District on Lake Tetonka, a Recreational Development "RD" lake. Property is located at Lot 2, Block 1, Warner's Tetonka Addition, Section 19, Waterville Township. **VARIANCE IS FOR IMPERVIOUS SURFACE AND RIP RAP WIDTH. APPLICATION WAS TABLED AT THE JANUARY 16, 2020 MEETING AND THE MARCH 19, 2020 MEETING.**

Steven & Karen Theissen were present for application. Township: None. DNR: None. Letters submitted: Holly Kalbus, Environmental Resources Specialist, recommending denial of the request for 25.2% Impervious Surface.

Discussion was held regarding: Steve & Karen Theissen discussed the areas of impervious surface they were proposing to remove and how they have directed roof drainage directly to the lake so it doesn't flow over the bluff. The amount of impervious surface that will still be on the property and how much more needed to be removed in order to reach 25% was discussed.

Public Comment: Tom Loveall stated his concerns with the argument of addressing impervious surface by directing runoff to the lake via tile instead of allowing it to infiltrate through pervious ground stating that this bypasses the reason for limiting impervious surfaces. Questioned this being an Act-of-God, there are a number of impacts of development that caused this issue. Contested that there is a practical difficulty. The home is in the Bluff Impact Zone is not helping with stability. If the variance is granted, there should be conditions placed on the approval that require restoration.

Findings of Fact by majority roll call vote for 25.2% Impervious Surface:

1. *The property owner does not propose to use the property in a reasonable manner.*
Plenty of opportunity to reduce impervious surface. Room for additional removal.
2. *The alleged practical difficulty is not unique to the property.*
Same as all bluff areas, real problem to handle bluff areas. Reducing impervious surface is critical. Plenty of opportunity to reduce impervious to what is required. Reduce impervious surface to protect the bluff.
3. *The circumstances causing the practical difficulty were not created by someone other than the landowner.*
Created this with the amount of impervious surface put in.
4. *The issuance of the Variance will maintain the essential character of the locality.*
Created problems with the bluff and will continue to create problems.
5. *The alleged practical difficulty involves more than economic considerations.*
We understand the alleged practical difficulty but could still be reduced down. Need to protect the bluff.
6. *The Variance is not consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Variance is not consistent with the Comprehensive Plan.*

Findings of Fact by majority roll call vote for rip rap width of 13 feet:

1. *The property owner proposes to use the property in a reasonable manner.*
2. *The alleged practical difficulty is unique to the property.*
3. *The circumstances causing the practical difficulty were created by someone other than the applicant/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 Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*

Motion was made by Roy McIntyre to Deny the request for 25.2% Impervious surface. Conditions: None. Seconded by Jim Mladek. Motion approved via roll call vote 3-0. Motion carried.

Motion was made by Jim Mladek to Approve the request for rip rap width of 13 feet. Conditions: None. Seconded by Roy McIntyre. Motion approved via roll call vote 3-0. Motion carried.

ITEM #3: LARRY & JULIE NITZSCHE, KASOTA, MN, (APPLICANT/OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to install a drainfield 13 feet from an existing deck, 18 feet from an existing garage, 18 feet from the top of a bluff and located within the bluff impact zone; Reuse an existing septic tank 7 feet from the deck; Convert an existing deck into a 3-season porch 14 feet from the top of the bluff and located within the bluff impact zone, and ROW setback of 40.8' for a garage addition in an Urban/Rural Residential "R1" District and a Mineral Resources "MR" Overlay District. Property is located at Lot 23, Block 2, Arrowood Subdivision, Section 8, Kasota Township.
VARIANCE IS FOR STRUCTURE AND BLUFF SETBACKS.

Larry & Julie Nitzsche were present for application. Township: None. DNR: None. Letters submitted: None.

Discussion was held regarding: The proposed septic location and vegetation establishment on the bluff were discussed.

Public Comment: None

Findings of Fact by majority roll call vote:

1. *The property owner proposes to use the property in a reasonable manner.*
2. *The alleged practical difficulty is unique to the property.*
3. *The circumstances causing the practical difficulty were created by someone other than the applicant/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 Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*

Motion was made by Roy McIntyre to Approve the application. Conditions: None. Seconded by Jim Mladek. Motion approved via roll call vote 3-0. Motion carried.

ITEM #4: VALERIE ANDERSON, OWATONNA, MN, (APPLICANT); VALERIE & ROBERT ANDERSON TRUST, OWATONNA, MN, (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to enlarge a non-conforming structure and to construct a dwelling addition 40 feet from the road Right-Of-Way (ROW) in a Recreational Residential "RR" District, and a Flood Fringe "FF" Floodplain Overlay District, on Lake Francis, a Recreational Development "RD" lake. Property is located at Lots 4 & 5, Warner's Subdivision, Section 33, Elysian Township. **VARIANCE IS FOR ENLARGING A NON-CONFORMING STRUCTURE AND ROAD ROW SETBACK.**

Valerie Anderson was present for the application. Township: None. DNR: None. Letters submitted: None.

Discussion was held regarding: Setbacks and protection of the slope to the lake were discussed.

Findings of Fact by majority roll call vote:

1. *The property owner proposes to use the property in a reasonable manner.*
2. *The alleged practical difficulty is unique to the property.*
3. *The circumstances causing the practical difficulty were created by someone other than the applicant/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 Ordinance.*
7. *The Variance is consistent with the Comprehensive Plan.*

Motion was made by Jim Mladek to Approve the application. Conditions: None. Seconded by Roy McIntyre. Motion approved via roll call vote 3-0. Motion carried.

5. **Discussion Items:** None

6. **Warrants/Claims:** Sign warrants/claim sheets

7. **Adjourn:** Motion to adjourn meeting by Jim Mladek. Seconded by Roy McIntyre. Motion approved via roll call vote 3-0. Motion carried. Meeting Adjourned.

Respectfully submitted,

Joshua Mankowski

APPROVED JUNE 18, 2020

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