

**CHISAGO COUNTY  
BOARD OF ADJUSTMENT & APPEALS  
OFFICIAL PROCEEDINGS  
January 26, 2023**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, January 26, 2023 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; and, Diane Sander, Support Specialist.

Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was then taken. Board members present: Chip Yeager, Doug Greene, Gregg Carlson, John Sutcliffe, and Becky Strand. Absent: None. A quorum was established with all members present.

**APPOINTMENT OF OFFICERS** – Chair Yeager called for nominations for 2023 Chair. Chair Yeager nominated Gregg Carlson for Chair; second by Becky Strand. Upon multiple calls, no other nominations were made. Roll call vote was taken and motion carried unanimously.

Chair Yeager called for nominations for 2023 Vice Chair. Gregg Carlson nominated John Sutcliffe for Vice Chair. John Sutcliffe nominated Chip Yeager for Vice Chair. Chip Yeager declined the nomination. Gregg Carlson nominated John Sutcliffe for Vice Chair; second by Doug Greene. Upon multiple calls, no other nominations were made. Roll call vote was taken and motion carried unanimously.

Chair Carlson thanked Chip Yeager for his work as 2022 Chair of the Board of Adjustment & Appeals.

**APPROVAL OF AGENDA** – Motion to approve the agenda as presented by Becky Strand; second by Chip Yeager. The motion passed and carried unanimously.

**APPROVAL OF MINUTES** – Motion to approve the December 29, 2022 meeting minutes as presented by Doug Greene; second by John Sutcliffe. The motion passed and carried unanimously.

**RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD** – Motion to receive all applications, submittals, reports, and other materials into the record by Becky Strand; second by Doug Greene. The motion passed and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included: staff reports with attachments. Copies of all correspondence and meeting materials were made available at the entrance to the hearing room and for electronic distribution.

**PUBLIC HEARINGS – NEW APPLICATIONS** – None

**PUBLIC HEARINGS – CONTINUED HEARINGS** – None

**OLD BUISNESS** – None

**NEW BUISNESS**

**Best Practices in Deciding Variances** – Assistant County Attorney Jeff Fuge provided background and guidance on best practices in the determination of Variances with regards to the state mandated practical difficulty standard, explaining that practical difficulties are determined on a case by case basis. There are two types of

Variations: area and use. Variance from area is a petition to deviate from established standards (setback, height, etc.). Variance from use is a petition to amend the Zoning Ordinance for a specific property. Attorney Fuge reviewed Minnesota Statute Section 394.27 and scope of authority for the Board of Adjustment & Appeals, explaining that the Board functions as a “quasi-judicial decision-making authority.” Site visits are used to collect observations of the specific property without engaging in conversation. Observations help build a foundation for dialogue during the public hearing. Once the public hearing is closed, board members enter into a deliberation period; however, the public hearing could be reopened to hear additional testimony and collect additional information at the Chair’s discretion. John Sutcliffe provided background on previous Variance requests that greatly deviated from Zoning Ordinance standards and described how the Board discussed / negotiated reduced setbacks or size of a building. Sutcliffe indicated the result provided an approval for the applicant, but that approval differed from the original request. Attorney Fuge indicated that the Board could make modifications; however, it would need to be consistent with the general purposes and intent of the Zoning Ordinance and consistent with the Comprehensive Plan. Fuge added that the applicant is required to demonstrate that the property is unique, in such a way that was not created by the landowner, and the proposed action will not be out of scale or inconsistent with the surrounding area. Economic considerations alone do not satisfy the practical difficulty standard. The decision should reflect the spirit and intent of the Zoning Ordinance and Comprehensive Plan to build a good record.

John Sutcliffe inquired if it was appropriate to extend the review period for a Variance request in order to allow the applicant time to collect additional information. Sutcliffe recounted one particular request where the applicant needed a survey to determine if a Variance was needed or not due to property line inconsistency. Attorney Fuge indicated the dialogue was appropriate with the applicant for the request of additional information. Chair Carlson discussed the three-factor practical difficulty standard, including reasonableness, uniqueness, and essential character. Carlson expanded on the uniqueness of properties (e.g., legal non-conforming lot sizes or topography characteristics) and questioned if a small legal non-conforming lot could satisfy the uniqueness factor. Attorney Fuge indicated that each Variance application goes through an eight-question analysis contained within the Zoning Ordinance, and, typically, the staff report includes comments about each of the eight questions. Fuge added that staff reports created for each Variance request are detailed and thorough regarding facts of the property and the applicant’s request, and staff typically provides a recommendation based on this information which is then considered by the Board. Further, staff helps determine if the request meets standards outlined in the Zoning Ordinance and Comprehensive Plan. If the request does not meet the established standards, staff will indicate that the proposal / plans need to be modified in order to meet requirements or if the request is able to proceed. Coordinator Gervais indicated that staff stresses the importance of the applicant’s request to be the minimum to alleviate the hardship / practical difficulty. Staff has an interactive dialogue with the applicant with the goal of identifying the minimum necessary Variance request. Attorney Fuge interjected that the customer service provided by zoning staff is tremendous to property owners. Ultimately the request should meet the spirit and intent of the County’s Zoning Ordinance and Comprehensive Plan. Chair Carlson asked if Attorney Fuge has seen many decisions appealed; Attorney Fuge responded saying that he has seen some appeals but not many.

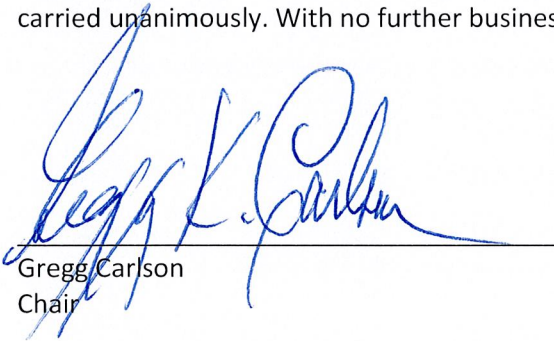
**Annual Review of Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure** – Coordinator Gervais provided a brief outline of the annual review process of the policy, explaining that both the Planning Commission and the Board of Adjustment & Appeals review the document on an annual basis with the ability to suggest changes for the County Board’s consideration. Chair Carlson asked Board members for any comments or suggested changes. Review followed on the Planning Commission’s recommended changes as discussed at the Commission’s January 5, 2023 meeting. Clarification was asked on Section 12. Meeting Decorum (C). A recommendation pertaining to Section 8. Regular Proceedings was offered as follows: Section 8. Regular Proceedings, (A) 1. Call to Order and Pledge of Allegiance,

with subsequent renumbering of other agenda items. **Motion** by Chair Carlson to add the Call to Order and Pledge of Allegiance to the regular order of business; second by John Sutcliffe and motion carried unanimously.

Clarification was asked on Section 13. Public Hearing Format (J) and Section 17. Member Attendance (B). **Motion** by Chip Yeager to forward the *Planning Commission and Board of Adjustment & Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure* with the Planning Commission's and Board of Adjustment & Appeals' recommendations (as detailed in the Planning Commission's January 5, 2023 meeting minutes and as noted above) for County Board consideration; second by John Sutcliffe and motion carried unanimously.

**MISCELLANEOUS** – None

**ADJOURN MEETING** – **Motion** to adjourn by John Sutcliffe; second by Chip Yeager. The motion passed and carried unanimously. With no further business the meeting was adjourned at 8:31 p.m.



Gregg Carlson  
Chair

ATTEST:   
Beth Gervais  
Land Services Coordinator