

**CHISAGO COUNTY  
BOARD OF ADJUSTMENT & APPEALS  
OFFICIAL PROCEEDINGS  
June 30, 2022**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, June 30, 2022 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Diane Sander, Land Services & Parks 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.

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

**APPROVAL OF MINUTES** – Motion to approve the May 26, 2022 meeting minutes as presented by John Sutcliffe; second by Doug Greene. 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 with the addition of one written public hearing comment by Becky Strand; second by Gregg Carlson. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: public hearing staff reports with attachments and public hearing comment from Chisago Lake Town Board Chair Sherry Stirling. 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**

**Gary Decker** – Gary Decker and Jill Nelson-Decker, property owners, requested a Variance to Zoning Ordinance Section 5.15, allowing a reduced roadway setback on the property to build a house, attached garage and deck. The .71-acre property is zoned Rural residential I (RRI) and within the Shoreland Management District and located at 46390 Beach Road, Fish Lake Township, S10, T36, R22 (PID# 03.01178.00).

Coordinator Gervais presented background information on the Decker’s application. The applicants wish to construct a new home, attached garage, and deck; the required setback is 73 feet from the centerline of the road (40 feet to the right-of-way (ROW) and the request is to lessen the setback requirement by 15 feet allowing a 58-foot setback from the centerline of Beach Road (25 feet to the ROW/easterly property boundary).

The property is combined Lots 13 and 14 of the Hilding Beach subdivision, platted in 1965, located on the southeasterly shore of south Goose Lake. The property is roughly 137 feet in width at the lake and 152 feet at the road, with a depth of 195 - 200 feet from the Beach Road ROW to the Ordinary High Water Level (OHWL). Approximately 51 feet from the ROW the property drops 13 feet in elevation over the next 10 feet then slopes more gradually to the lake. This is not considered a bluff. The applicants’ written narrative explains the need for the request: contours of the property, avoid excavating and filling along the steep slope to move the house closer to the road, proposed house location would be in line with neighboring homes along Beach Road, a shorter driveway would reduce the impervious surface, and less fill will need to be placed around the foundation of the home if it is built closer to the road.

The Fish Lake Town Board recommended approval on June 13, 2022 with no conditions. Technical Review was held on June 8, 2022 and a septic certification would be required; which is in process. Gary Decker and Jill Nelson-Decker were present and available to address questions and concerns. Chair Yeager asked each board member for additional questions and comments. John Sutcliffe asked a clarifying question on the attached garage.

Chair Yeager sought public comment; no one was present to testify on the matter. With no additional person wishing to speak, ***motion*** to close the public hearing by Gregg Carlson; second by Becky Strand. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments.

***Motion*** by John Sutcliffe to approve Resolution No. BOAA2022-0601, a resolution approving a Variance to allow a reduced roadway setback on property located at 46390 Beach Road (PID# 03.01178.00) in Fish Lake Township, with Findings of Fact and conditions as presented; second by Becky Strand. The motion passed and carried unanimously.

**Approved Conditions:**

1. This approval grants a 15' Variance to the Township Road setback requirement allowing the proposed dwelling with attached garage and deck to be no closer than 58' from the centerline of Beach Road / 25' from the Beach Road Right-of-Way. The structure shall comply with all other setback requirements.
2. The property owner shall obtain a building permit prior to construction and, further, the residential structure shall comply with all applicable codes and regulations except as permitted by this Variance.
3. The property owner shall obtain a septic design and permit prior to installation of the septic system, and the system shall comply with all applicable codes and regulations.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**Darin and Linda Nelson** – Darin and Linda Nelson, property owners and applicants, requested a Variance to Zoning Ordinance Section 5.15, to replace a cabin and detached garage with a new home and detached garage closer to the roadway than the required setback. The .45-acre property is zoned RRI and within the Shoreland Management District and located at 51235 Amber Avenue, Nessel Township, S16, T37, R22 (PID# 06.01274.00).

Coordinator Gervais presented background information on the Nelson's application. The applicants purchased the property four years prior and have used it as a seasonal cabin. The cabin has structural issues and both the cabin and existing detached garage are too close to the road. The applicants would like to remove the cabin and detached garage and build a year-round home with a new detached garage. The new house and garage would be built further from the road in both locations reducing the roadway encroachments. The property is located within the Ryberg's Addition subdivision, platted in 1959, located on the west shore of West Rush Lake. Amber Avenue jogs in such a way that it runs along the entire west property boundary and approximately 95 feet along the north property boundary. The proposed single family dwelling would generally be situated 75 feet from the Rush Lake OHWL, meeting south side yard setback, OHWL/east side setback, and township road setback on the west side. The dwelling is proposed to be 10 ft from the north property boundary/Amber Avenue ROW.

The proposed 26' x 30' detached garage will be situated 10 feet west of the house. The survey shows that the garage will be 29.3 feet from the west property boundary/Amber Avenue ROW. The proposed detached garage will meet all other setback requirements. The garage is within the 1,000 square feet of permitted accessory storage area for the RRI District. The holding tank, which is currently located within township road ROW will be

relocated so it meets all required setbacks. The driveway will be relocated to access Amber Avenue to the north rather than the west, allowing for better sightlines.

The Nessel Town Board recommended approval on June 14, 2022 with no conditions. Technical Review was held on June 8, 2022 and the committee found no concerns. Darin and Linda Nelson were present and available to address questions and concerns. Chair Yeager asked each board member for additional questions and comments. Gregg Carlson questioned locations of the septic system, propane tank, and well. Chair Yeager sought public comment; with no members of the audience wishing to speak, ***motion*** to close the public hearing by John Sutcliffe; second by Becky Strand. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments. ***Motion*** by John Sutcliffe to approve Resolution No. BOAA2022-0602, a resolution approving a Variance allowing reduced roadway setbacks on the property located at 51235 Amber Avenue (PID# 06.01274.00) in Nessel Township, with Findings of Fact and conditions as presented; second by Doug Greene. The motion passed and carried unanimously.

**Approved Conditions:**

1. This approval grants the following Variances:
  - a. A 30' Variance to the Township Road setback requirement allowing the proposed dwelling to be located no closer than 10' from the northerly Amber Avenue Right-of-Way.
  - b. A 10.7' Variance to the Township Road setback requirement allowing the proposed detached garage to be located no closer than 29.3' from the westerly Amber Avenue Right-of-Way.The proposed structures shall comply will all other setback requirements.
2. The property owners shall obtain a building permit prior to construction and, further, the single family dwelling and detached garage shall comply with all applicable codes and regulations except as permitted by this Variance.
3. The property owners shall obtain a septic permit prior to the relocation / installation of holding tank(s) and, further, said tank(s) shall comply with all applicable codes and regulations.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

**Teresa and Scott Simmons** – Teresa and Scott Simmons, property owners, are requesting a Variance to Zoning Ordinance Section 5.15 Dimensional Standards, allowing a reduced roadway setback. The property owners wish to construct a 16' x 28' detached garage closer to the township road than the required setback. The .31-acre property is zoned Rural Residential II (RRII) and within the Shoreland Management District and located at 32770 N. Center Court, Chisago Lake Township, S22, T34, R20 (PID# 02.01084.00).

Coordinator Gervais presented background information on the Simmons application. The applicants wish to construct a 16' x 28' detached garage closer to the township road than the required setback. The required setback is 73 feet from the centerline of the township road (40 feet from the ROW). The request is to lessen the setback requirement to 45 feet from the centerline of the township road (12 feet from the ROW). There is an existing one stall garage on the property which will remain. The property is Lot 13 of Chi-Gak-Wa Shores subdivision, platted in 1955, generally located on the northeastern shore of North Center Lake. The property slopes approximately 9 feet in elevation over the next 20 feet, flattens out at the house site, then slopes again to the lake. The applicants explain that due to the contour of the lot, the flat area near the road is where the garage would need to be located and consistent with most other neighboring homes along the road. The proposed area where the garage would be constructed is already impervious and, although the lot is currently at 32% impervious surface, construction will not increase the amount of impervious surface coverage.

The Chisago Lake Town Board recommended approval on June 21, 2022 pending completion of a survey. The Town Board commented, "A survey is needed to establish the building will not be in the ROW. The shed is going over already-impervious parking lot – gravel goes all the [way to] road." Technical Review was held on June 8, 2022. The committee discussed the fact that the property is served by a holding tank and a septic certification is required; which has been initiated. Coordinator Gervais indicated that staff supports the Town Board recommendation for a survey. Coordinator Gervais read additional correspondence from Chisago Lake Township.

*Sherry Stirling* – Chair of Chisago Lake Town Board. "The Town Board recommend approval of the variance from 40 ft to 28 ft for the garage on the Simmons property. There are outbuildings on other parcels located close to the ROW on North Center court so this one will not be out of character. The Town Board is requesting a survey for the corner location where the position of the garage would be before proceeding so the garage does not encroach on the road ROW. That corner currently appears to encroach on the neighbor's property and into the road ROW."

Scott Simmons was present and available to address questions and concerns. Simmons commented that he would like to avoid having a survey prepared. He asked if he could adjust the size of the garage instead of having a survey done. Doug Greene commented a survey would be needed to assure the garage is not on the neighbor's property. Greene suggested the option of preparing a corner survey instead of survey of the entire property. Gregg Carlson supported a survey since the applicant does not know the location of the property corner, in order to establish the 5 ft side yard setback. A survey would establish the starting point and from there the applicant could determine if the size of the garage needs to be adjusted. A comprehensive discussion followed between Board members and the applicant on the necessity of the survey to address concerns on locations of property boundaries.

Chair Yeager sought public comment.

*Robert Gene Jarnagin* - 32730 N Center Ct. "I have no objection to the garage. It is not going to bother me while looking at the lake, looking up and down the road, or driving on the road. I have no objection to the garage."

With no additional members of the audience wishing to speak, ***motion*** to close the public hearing by Becky Strand; second by Doug Greene. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments. Options were discussed by Board members to review the plat for corner markers or reviewing legal descriptions, with consensus to prepare a survey to establish the project area prior to adjusting the size of the garage. ***Motion*** by Gregg Carlson to extend the 60-day review period by an additional 60 days and table the request to allow the applicant time to prepare a survey/partial survey to establish the location of the property boundaries (specifically east and south property lines) at 32770 N Center Court (PID# 02.01084.00) in Chisago Lake Township; second by Becky Strand. The motion passed and carried unanimously.

**Judith James** – Judith James, property owner, is requesting a Variance to construct a breezeway to connect the existing dwelling and detached garage closer to the road than the required setback. The 5-acre property is zoned Agricultural (AG) and is located at 20433 345<sup>th</sup> Street / County Road 79, Shafer Township, S11, T34, R19 (PID# 08.00122.00).

Coordinator Gervais presented background information on the James application. Judith James wishes to construct a 6' x 12' breezeway to connect her house and detached garage. The dwelling and garage are closer to 345<sup>th</sup> Street / County Road (CR) 79 than the required setback; therefore, the proposed breezeway would be closer as well. The required setback is 135 feet from the centerline of the road. A previous property owner

obtained a Variance in 2007 to expand the dwelling and rebuild the detached garage with reduced roadway setbacks. With the setback requirements of 135 feet from the center of CR 79 and 50 feet from the rear property line, it would be impossible to build anything on the west side of the property without Variance approval. The applicant indicated the lot is narrow in an “L-shaped layout” where the existing dwelling and detached garage are located. The buildings were originally built to accommodate for a breezeway in the future. The applicant indicated the need for the breezeway was for safety between the structures and minimize winter conditions. There will be no noticeable change to the site, as there are trees that line the road in front of the house.

The Shafer Town Board recommended approval on June 9, 2022 with no conditions. Technical Review was held on June 8, 2022 and the committee had no issues with the request; however, the Building Official stated the breezeway would need to have frost footings/foundation and be attached to the house. Additionally, if at any time the garage becomes living space, the garage will need to be frost proofed. Judith James was present and available to address questions and concerns. Gregg Carlson clarified with James on the need for frost footings. Chair Yeager sought public comment; no one was present to testify on the matter. With no additional person wishing to speak, ***motion*** to close the public hearing by Gregg Carlson; second by Doug Greene. The motion passed and carried unanimously. Each Board member was asked for additional questions and comments.

***Motion*** by Gregg Carlson to approve Resolution No. BOAA2022-0604, a resolution approving a Variance allowing a reduced roadway setback on property located at 20433 345<sup>th</sup> Street / County Road 79 (PID# 08.00122.00) in Shafer Township, with Findings of Fact as presented and conditions as amended; second by Becky Strand. The motion passed and carried unanimously.

#### **Approved Conditions:**

1. This approval grants up to a ~~60~~ 63' Variance to the County Road setback requirement allowing the proposed breezeway to be no closer than ~~75~~ 72' from the centerline of 345<sup>th</sup> Street / County Road 79. The structure shall comply with all other setback requirements.
2. The property owner shall obtain a building permit prior to construction and, further, the structure shall comply with all applicable codes and regulations except as permitted by this Variance.
3. Any future remodeling / conversion of the garage to living space shall require building and septic permits as necessary prior to said remodeling / conversion. Further, any future use of the property must comply with the District regulations in effect at that time.
4. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

#### **Miscellaneous**

Coordinator Gervais provided an update on the SP Farms LLC Variance request. At the May 26, 2022 meeting the request was tabled for the applicant to explore other options with the neighbor. The applicant had a survey prepared and found that the property did have the required 300 road frontage when factoring in the required Right-of-Way dedication. The applicant officially withdrew the Variance request and is considering a request for a Preliminary Plat.

**ADJOURN MEETING – *Motion*** to adjourn by Doug Greene; second by Becky Strand. The motion passed and carried unanimously. With no further business the meeting was adjourned at 7:51 p.m.