

CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
September 29, 2022 - DRAFT

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, September 29, 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 by xxx; second by xxx. The motion passed and carried unanimously.

APPROVAL OF MINUTES – Motion to approve the August 25, 2022 meeting minutes as presented by xxx second by xxx. 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 xxx; second by xxx. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: public hearing staff report 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

Jason & Catherine Foss – Property owners, are requesting Variances to Zoning Ordinance Section 5.15 and Shoreland Management Ordinance Section 5.21, allowing the construction of a dwelling closer to the township road Right-of-Way, northerly side yard and Ordinary High Water Level (OHWL) than allowed in the Rural Residential I (RRI) District / Shoreland Management District. The .23-acre property is located at 49705 Afton Avenue, Nessel Township, S28, T37, R22 (PID# 06.00753.00).

Coordinator Gervais presented background information on the Foss application which is proposing to redevelop the property to construct a single family dwelling and utilize the existing detached garage. The applicants had received a Variance in 2008 allowing the removal of a shed and construction of a larger detached garage in the current location, approximately 15' from the Right-of-Way. The site is Lot 9 of the Bayside Townsite subdivision, platted in 1954 prior to the County's adoption of zoning, subdivision and shoreland regulations and considered a legal non-conforming parcel. Based on the original impervious surface calculation worksheet and increased dwelling size, the proposed amount of impervious surface being 19.2%.

The proposal is to demolish the existing 720 sf dwelling in order to construct a 960 sf dwelling with a 240 sf covered porch. The site plan shows the proposed dwelling 15' from Afton Avenue Right-of-Way and 4' from the northerly property boundary. The proposed structure will not exacerbate the existing roadway or side yard setback encroachments. The applicants have not provided a survey; however, they have reportedly found the northwesterly property pin and believe that the existing dwelling is located 4' from the northerly property boundary. However, the proposed dwelling will be set back 87' from the OHWL, the applicants are requesting a

10' Variance to the OHWL setback requirement due to the fact that they don't have a survey of the property and can't be certain of the actual setback. They have requested the 10' setback Variance to allow flexibility without having the benefit of a survey. The average depth of the property site is 126.5' (based on the County's GIS Viewer), yet the dimensions provided on the applicant's site plan suggest the depth is 142' (15' setback from R-O-W + 40' structure + 87' setback from OHWL). This may not seem like a significant difference; however, on a smaller property such as this site, it has a significant impact on the Variance request. A survey would clear up the discrepancy and allow the Board to be certain of the existing and proposed setbacks.

The Nessel Town Board recommended denial on September 13, 2022 with a comment that the "township would prefer to have house moved closer to high water mark instead of closer to road as it currently stands". The Technical Review Committee met on September 14, 2022 with Jason Foss and his contractor and discussed the dwelling size, possibility of shifting the dwelling to reduce or eliminate setback Variances, septic system instead of holding tank, and the property owner's statutory right to rebuild the dwelling in its current location without Variance approval.

Jason and Catherine Foss were present and available to address questions and concerns. Chair Yeager asked each board member for additional questions and comments.

Chair Yeager sought public comment. With no members of the audience wishing to speak, ***motion*** to close the public hearing by xxx; second by xxx. The motion passed and carried unanimously.

Each Board member was asked for additional questions and comments. J. Foss or C. Foss

Motion by xxx to approve Resolution No. BOAA2022-0901, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving Variances to Zoning Ordinance Section 5.15 and Shoreland Management Ordinance Section 5.21 in order to demolish the existing dwelling and construct a new dwelling with reduced Township Road Right-of-Way setback, side yard setback, and OHWL setback in the Rural Residential I (RRI) District / Shoreland Management District on property located at 49705 Afton Avenue in Nessel Township, with Findings of Fact and conditions as presented; second by xxxx. The motion passed and carried unanimously.

Approved Conditions:

1. This approval grants the following Variances:
 - a. An approximate 34' Variance to the township road Right-of-Way setback requirement allowing the proposed dwelling to be no closer than 6' from the Afton Avenue Right-of-Way. This Variance will allow the proposed dwelling to be located no closer to the township road Right-of-Way than the existing dwelling and existing detached garage.
 - b. An approximate 6' Variance to the northerly side yard setback requirement allowing the proposed dwelling to be no closer than 4' from the northerly property boundary. This Variance will allow the proposed dwelling to be located no closer to the northerly property boundary than the existing dwelling.
 - c. A 10' Variance to the OHWL setback allowing the proposed dwelling to be no closer than 65' from the OHWL of Rush Lake.
2. Except as specifically required herein, the dwelling shall be constructed in general conformance with the site plan dated received September 18, 2022. Any significant deviation from the approved request and site plan, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.

- The permittees shall obtain a building permit prior to construction and, further, the dwelling shall comply with all applicable codes and regulations.
- This Variance shall be made use of within one year of the date of approval or it shall become null and void.

John & Melinda Rieck – Property owners, requested Variances to Zoning Ordinance Sections 4.03 and 4.08.2 and Shoreland Management Ordinance Section 5.21 in order to construct a garage addition closer to two Ordinary High Water Levels than allowed in the Shoreland Management District, and to exceed the maximum amount of accessory storage space and number of detached accessory structures allowed in the Rural Residential II (RRII) District. The 4.94-acre property is located at 30710 Mattson Court, Chisago Lake Township, S31, T34, R20 (PID# 02.00860.00).

Coordinator Gervais presented on the Rieck Variance approval at the August 25, 2022 Board of Adjustment and Appeals meeting. Immediately following the August 25, 2022 meeting, it was determined the approved conditions did not accurately reflect the intended approval due to a mathematical error, and, therefore, reconsidered the request for Variance at the September 29, 2022 meeting in order to correct the original motion and conditions of approval.

(Red text is applicants label for each structure on site plan dated received August 1, 2022; e.g. Home (1))

Existing Accessory Structure Description	Largest Reported Dimension (footprint)	Area
Attached Garage (2)	25' x 25'	625 sf
Sauna (4)	9.5' x 17'	161.5 sf
Shed 1 - Garden Shed (3)	20' x 24'	480 sf
Shed 2 - Garden Shed (7)	12' x 19'	228 sf
Shed 3 - Wood Shed (6)	12' x 10'	120 sf
Shed 4 - Lake Shed (5)	10' x 14'	140 sf
TOTAL		1,754.5 sf

John and Melinda Rieck were present.

Approved Conditions:

- This approval grants a _____ sf Variance allowing the overall amount of accessory storage area not to exceed _____ sf. This amount accounts for the existing 625 sf attached garage, a _____ sf garage addition, and a total of _____ sf for detached accessory structures. The proposed addition shall not exceed the dimensions of _____.
- This approval allows for the construction of the garage addition to be no closer than 38' from the School Lake OHWL and 130' from the Lake Mattson OHWL where the required setbacks are 150'.
- The property owners shall remove _____ of the five existing illegal detached structures from the subject site, specifically structures identified as _____ on the site plan dated received August 1, 2022. The structures shall be removed within one year from the date of Variance approval.
- The garage addition shall be constructed in general conformance with the application materials, including site plan, dated received August 1, 2022. Any deviation from the approved request and site plan shall

require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.

5. Being that this Variance is in part granted on the basis of lot size, the property shall not be reduced in size unless and until the property is brought into compliance with the strict regulations for accessory structures and accessory storage space in the Rural Residential II (RRII) District in effect at the time of subdivision.
6. The property owners shall obtain a building permit prior to construction and, further, the garage addition shall comply with all applicable codes and regulations.
7. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

OLD BUSINESS - None

NEW BUSINESS - None

MISCELLANEOUS

Coordinator Gervais provided a quick updated on the upcoming Navigating Key Land Use Conference on September 14, 2022.

ADJOURN MEETING – *Motion* to adjourn by xxx; second by xxxx. The motion passed and carried unanimously. With no further business the meeting was adjourned at 8:48 p.m.