

**CHISAGO COUNTY  
BOARD OF ADJUSTMENT & APPEALS  
OFFICIAL PROCEEDINGS  
March 30, 2023**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, March 30, 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 Carlson 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 Becky Strand; second by Chip Yeager. The motion passed and carried unanimously.

**APPROVAL OF MINUTES** – Motion to approve the January 26, 2023 meeting minutes as presented by Chip Yeager; 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 by Becky Strand; second by John Sutcliffe. The motion passed and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included: 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** – None

**PUBLIC HEARINGS – CONTINUED HEARINGS** – None

**OLD BUISNESS** – None

**NEW BUISNESS**

**Brad & Tessa Nelson** – Coordinator Gervais provided background information on Brad & Tessa Nelson’s second Variance extension request for property located at 13380 322<sup>nd</sup> Street in Chisago Lake Township (PID 02.01316.26), explaining that the Nelsons requested and received a Variance in March 2021 allowing them to build an addition onto the rear of their house closer to the OHWL than allowed by the Shoreland Management Ordinance. As was customary with all Variance approvals, the property owners were required to make use of the Variance within one year of approval in order to keep the approval valid. Gervais explained that Zoning Ordinance Section 8.06 I. stated that “any Variance approved but not utilized within twelve (12) months of the date of approval may become null and void, unless the applicant requests a one year extension in writing, prior to the one year anniversary date of approval, and states a valid reason for non-use of the Variance.” The Nelsons submitted a written request for extension, dated received March 8, 2022, for which the Board granted approval on March 31, 2022. The extension expired on March 25, 2023 (two years from original date of approval). On February 28, 2023, prior to the expiration of the one-year extension, the Nelsons submitted a second written request for

extension of their original Variance approval.

Coordinator Gervais explained that because Zoning Ordinance Section 8.06, I. was not entirely clear on how many requests for extension may be considered for a single Variance approval, staff allowed submission of the Nelson's second request. However, following submission of the request and upon closer review of Section 8.06, I., staff found that the Board could interpret "... prior to the *one* year anniversary date of approval, ...." as an indication that only one extension could be considered being that any further extension requests would be submitted beyond the "one year anniversary" timeframe. Staff requested that the Board consider the Nelson's current request for extension and, additionally, provide clarification to staff on Zoning Ordinance Section 8.06, I. for future similar requests. Gervais concluded by reviewing staff's recommendation, options available to the Board, and action requested of the Board.

Chair Carlson invited the applicant to address the Board. Brad Nelson, property owner, stepped forward. Mr. Nelson stated reasons for the previous and current extension requests. Sutcliffe inquired if the Nelsons intended to construct the proposed addition in 2023. Nelson responded to the affirmative, stating he was planning to obtain the building permit before the Variance extension, if granted, expired. Carlson commented that, if granted, the Nelsons must obtain a building permit within one year. Nelson commented that if they didn't obtain the building permit within one year, they would not request another extension. The Board discussed the Nelson's request.

**Motion** by Chip Yeager to adopt Resolution No. BOAA2023-0301, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving the second extension of a Variance allowing a reduced OHWL setback on property located at 13380 322<sup>nd</sup> Street in Chisago Lake Township, as presented; second by John Sutcliffe. The motion passed and carried unanimously.

Coordinator Gervais then requested that the Board provide clarification on how the Zoning Ordinance read regarding the number of extensions allowed on a single Variance approval. The Board discussed various circumstances which would be out of the control of property owners and would warrant providing more than one extension, and the possibility of Amending the Zoning Ordinance to provide more clarity. Gervais commented that the Planning Commission was in the process of updating the Zoning Ordinance and any recommended Amendment could be incorporated into the Ordinance update.

**Motion** by Becky Strand; second by Chip Yeager to recommend that Zoning Ordinance Section 8.06, I. be Amended as follows:

- I. Reapplication for the same or substantially same variance shall not be accepted within six (6) months of denial by the Board of Adjustment and Appeals. Any variance approved but not utilized within twelve (12) months of the date of approval ~~may~~ shall become null and void, unless the applicant requests ~~a one-year extension in writing, prior to the one-year anniversary date of approval~~ an extension in writing prior to the expiration, and states a valid reason for non-use of the variance.

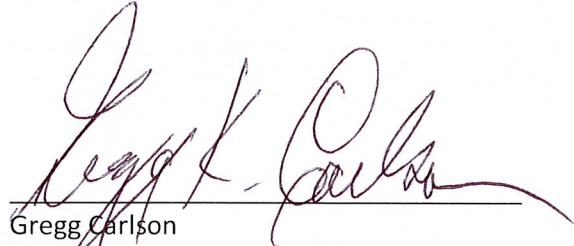
The motion passed and carried unanimously.

#### **MISCELLANEOUS –**

**Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure (County Board Resolution No. 23/0215-5)** - Coordinator Gervais provided the Board with a copy of the policy which was adopted by the Board of Commissioners on

February 15, 2023, commenting that the adopted policy incorporated all of the suggested changes provided by the Board of Adjustment and Appeals and Planning Commission.

**ADJOURN MEETING – Motion** to adjourn by Chip Yeager; second by John Sutcliffe. The motion passed and carried unanimously. With no further business the meeting was adjourned at 7:42 p.m.

  
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Gregg Carlson  
Chair

ATTEST:   
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Beth Gervais  
Land Services Coordinator