

**CHISAGO COUNTY
BOARD OF ADJUSTMENT
OFFICIAL PROCEEDINGS
August 26, 2021**

The Chisago County Board of Adjustment met in regular session at 7:00 p.m. on Thursday, August 26, 2021 in County Board Room of the Government Center.

Staff Present: Patty Perreault; Office Manager and Diane Sander; Land Services & Parks Specialist.

Chair Strand 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: Becky Strand, Doug Greene, Chip Yeager, John Sutcliffe and Gregg Carlson. A quorum was established with members present.

APPROVAL OF AGENDA – Motion to approve the amended agenda with the addition of two public comments by Gregg Carlson. Second by Doug Greene. Roll call vote was taken and motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the July 29, 2021 meeting minutes by John Sutcliffe. Second by Gregg Carlson. Roll call vote was taken and motion carried unanimously.

RECEIPT OF MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Chip Yeager to receive all applications, submittals, reports and other materials into the record by reference. Second by Doug Greene. Roll call vote was taken and motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included the Public Hearing Staff Reports with Attachments and two Public Hearing comments for Emmerich PID 02.06.00928.00. One public comment also included a copy of Board of Adjustment minutes from 2015. Public Hearing Staff Reports had been distributed in advance to the Board and the applicant for their review. Copies of all correspondence, meeting materials, and Staff Reports were made available at the entrance to the hearing room and for electronic distribution.

PUBLIC HEARING

Richard and Colleen Roloff – Mr. and Mrs. Roloff were present at the hearing to request a variance to rebuild a house and garage on a non-conforming lot closer to the lake, side property lines, and road than the required setbacks; to exceed the impervious surface requirement, and to install a holding tank closer to the road, property line, and garage than the required setbacks. The property is located at 1482 509th Street, Nessel Township; Sec. 22, T. 37, R. 22 (PID# 06.00466.00). Manager Perreault presented background information on the Roloff application that requested two variances. First variance is the expansion of a nonconforming structure to encroach into the rear yard, road, and side yard setbacks and a holding tank to encroach upon the side setback as well as the setback to the garage for reconstruction of a house with attached garage. Second variance is to exceed the maximum 25% impervious surface area. The property is 0.19 of an acre and located on Rush Lake. The property is zoned Rural Residential I (RRI) and within the Shoreland Overlay. The riparian lot is considered substandard due to the fact the tiny lot size predates shoreland and zoning regulations and does not meet today's standards. The existing structures are considered legal nonconforming. The owners are proposing to rebuild a year-round dwelling with attached garage. A new holding tank would be installed and would be closer to property line, road, and garage than the required setbacks. All existing structures would be removed. The Roloff's have made several efforts to lessen the degree of nonconformity of what exists today. Nessel Township recommended approval with no conditions on August 10, 2021. Technical review was held on August 12, 2021 and listed concerns of drainage between properties and concerns with the septic and location to neighbor's well.

Mr. and Mrs. Roloff were available to address questions and concerns. Chair Strand opened the public hearing and sought comment. No one was present to testify in the matter. With no additional person wishing to speak, **motion** by Chip Yeager to close the public hearing. Second by Gregg Carlson. Roll call vote was taken and motion carried unanimously. Each board member was asked for additional questions and comments.

Motion by Gregg Carlson to approve variance #1 for expansion of a nonconforming structure to encroach into the rear yard and side yard setbacks and a holding tank to encroach upon the side setback as well as the setback to the garage, for reconstruction of a house with attached garage at 1482 509th Street, (PID#06.00466.00) based on findings of fact, staff report, site plan and narrative of record as presented with the following condition:

Condition:

1. Holding tank to be placed to meet 10 foot setback to neighboring dwelling, no closer than 5 feet to garage. Addition to comply with building code fire separation regulations.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development that is viewed as the contributing factor in meeting today's required minimum standards in zoning.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion by actually lessening the nonconformity of the structure and decreases the rear yard and road setback encroachment which is deemed to be a reasonable use of the property within this zoning district.

Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously.

Motion by Gregg Carlson to approve variance #2 to exceed the maximum 25% impervious surface area at 1482 509th Street, (PID#06.00466.00) based on findings of fact, staff report, site plan and narrative of record as presented with the following condition:

Condition:

1. Drainage accommodated on site through gutter, rain barrel, rain garden, drainage basin directed away from neighboring property and lake.

Findings of Fact:

1. The Variance does not change the character of the neighborhood and is consistent with previous approvals on substandard lake lots.
2. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion by actually lessening the nonconformity of the structure and is viewed to be a reasonable use of the property within this zoning district.
3. The Variance as presented will not an adverse impact on the neighborhood by relocating the dwelling with attached garage in a manner that complies with the front yard/road setback.

Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously.

Larry and Barb Emmerich – Mr. Emmerich was present at the hearing to request a variance to add onto an existing non-conforming garage closer to the road than the required setback and exceed the impervious surface requirement in the RRI Zoning District. The property is located at 50560 Bayside Avenue, Nessel Township; Sec. 21, T. 37, R. 22, (PID# 06.00928.00). Manager Perreault presented background information on the Emmerich application that requested two variances. First variance is the expansion of a detached garage within the front yard setback. Second variance is to exceed the maximum 25% impervious surface area. The property is 0.22 of an acre and located on the east side of West Rush Lake. The property is zoned RRI and within the Shoreland Overlay. The riparian lot is considered legal non-conforming. The owners are proposing to expand onto the west side of the existing detached garage with approximately 20 x 25 ft addition. The current garage does not meet the setback from the road, closest corner being located approximately 1.2 ft from the road right of way. The addition will be further from the road and will meet the side yard setback. Currently, the property is at 35.7% impervious. Applicants are proposing to remove the existing driveway and

part of the wood walkways lessening the impact of the addition with total of 38.2% impervious. Nessel Township recommended approval with no conditions on August 10, 2021. Technical review was held on August 11, 2021 and the Sanitarian had concerns regarding the proximity of the holding tank to what may be the driveway in front of the garage addition and recommended fencing or other protection to keep it from being driven over. The Code Enforcement Officer provided a letter stating the request to construct a garage addition within the bluff impact zone and on the bluff itself is specifically prohibited. Chisago County Shoreland Ordinance Section 5.21 C Bluff Impact Zones states, "Structures and accessory facilities, except stairways and landing, must not be placed within bluff impact zones." The request to place fill on the bluff and create a 100% slope with a retaining wall is prohibited by ordinance. Plans to place fill or excavate materials on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.

Mr. Emmerich was available to address questions and concerns. Discussion was held on the proposed garage addition being in a bluff area and concerns of the increase in the impervious surface. Manager Perreault indicated she reviewed the slope determination for bluffs and confirmed the bottom of the property from the lake to the house is a bluff. However, there is a small flat/plateau area and it is difficult to determine if the area above that where the garage addition is proposed, is also part of a bluff. Chair Strand opened the public hearing and sought comment. Chair Strand asked Manager Perreault to read the written public comment submitted in advance of the meeting.

Tom and LeAnne Murphy – 50570 Bayside Avenue, we do not support this variance request with raising the impervious surface percentage. In October 2015 and December 2015, a previous owner went through the variance process on this property, and was denied for a larger garage and shed. As neighbors, we have invested money and time to help minimize runoff from the smaller garage that was approved in 2015. A larger garage with the slope would make it exponentially worse. Property along this shoreline are especially sensitive to runoff due to severe slope. We annually make modifications to our property to minimize any runoff damage. We have intermittent water flow through our basement due to washout from the north and south property lines. All runoff flows to our property, since it is the lowest in relation to surrounding properties, and the proposed garage addition will be built on the edge of a bluff. County restrictions are put in place for a reason. If approved, the impervious surface would exceed by 13.2% and will set a precedence for others to go above the impervious surface limits on the lake. Attached to the letter included October 30, 2015 and December 3, 2015 Board of Adjustment minutes.

Steve Knight – 50630 Bayside Avenue, in October 2015 a former owner requested to build a 20 x 20 ft garage. A site visit was conducted by the county and the request was denied. A 14 x 22 ft garage was proposed which the Board of Adjustment approved and was built. The existing garage is already too close to the road and does not meet setback requirements. The garage increases the impervious surface on the lot, over the 25% impervious surface limit. The October 2015 minutes clearly states why the request was denied. It is unfortunate, but the property conditions are the same. Therefore, with good reason the decision should remain the same and the request should be denied.

No one was present to testify in the matter. With no additional person wishing to speak, ***motion*** by Chip Yeager to close the public hearing. Second by Gregg Carlson. Roll call vote was taken and motion carried unanimously. Each board member was asked for additional questions and comments. Discussion and concerns with the impervious surface and bluff area continued. Manager Perreault indicated the applicant will need to provide documentation for staff review to determine if the location of the addition is in the bluff impact zone. Doug Greene commented the second issue is the impervious surface which already exceeds the 25% impervious surface, the applicant should also provide documentation how they are specifically going to address runoff concerns and reduce the impervious surface. Mr. Emmerich requested a time extension to allow for additional time to obtain surveyor and/or consultant to determine the bluff impact zone, if the

proposed location is outside of it, and also address the impervious surface concerns. Manager Perreault indicated the applicant would be refunded their application fees if the area was determined to be within the bluff impact zone, as this was not recognized by Staff at time of application. **By consensus**, the Board approved the applicant's request for a time extension not to exceed 90 days from the date of this meeting.

Old Business

Michael and Anna Ashley – Mr. and Mrs. Ashley were present at the hearing to request further review of their variance requests to remodel an existing home and detached garage with a new windows, doors, siding, and raising side walls with 6/12 pitch trusses on the same foundation, the garage would be replaced with an attached garage 12 ft closer to the road than the required setback. Alternatively, if problems are incurred during construction the applicants are requesting Option #2 a variance to replace the existing house and rebuild by keeping the same layout and remodel as stated above but adding a course of block to the existing foundation to make the basement ceiling 8 feet instead of 7 feet, with attached garage 12 feet closer to the road than the required setback. In either scenario a portico would be added to the front of the house closer to the road than required setback and an addition is planned for the rear of the house. The property is located at 10800 Green Lake Trail, Chisago Lake Township; Sec. 19, T. 33, R. 20 (PID# 02.00159.00). Manager Perreault presented the updated information on the Ashley application which included an updated site plan of house and garage that indicated the existing roof would be removed and adding 18 inches to the side walls to create a nine-foot ceiling and removing detached garage and replace with an attached garage. The house peak would be 16 feet and garage would be 22 feet. Mr. and Mrs. Ashley were available to address questions and concerns. Doug Greene commented it might be cheaper to tear down the house than to remodel.

Chair Strand opened the public hearing and sought comment. No one was present to testify in the matter. With no additional person wishing to speak, **motion** by John Sutcliffe to close the public hearing. Second by Gregg Carlson. Roll call vote was taken and motion carried unanimously. Each board member was asked for additional questions and comments. **Motion** by John Sutcliffe to approve variance #1 for a remodel and expansion of a nonconforming structure by adding a 14 x 20 addition to the rear; raising the roof 18 inches and adding 6/12 pitch trusses; the addition of a 6 x 10 portico closer to the road; and enlarging and attaching the garage to the house 12 feet closer to road than the existing detached garage at 10800 Green Lake Trail (02.00159.00) based on findings of fact, staff report, site plan and narrative of record as presented.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development that is viewed as the contributing factor in meeting today's required minimum standards in zoning.
2. The Variance does not materially change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion by and is deemed to be a reasonable use of the property within this zoning district.

Second by Doug Greene. Roll call vote was taken and motion carried unanimously.

Motion by John Sutcliffe to approve variance #2 to reconstruct the house in the same location with an additional course of block on the foundation, 18 inch walls, 6/12 roof trusses, adding a 14 x 20 addition to the rear; adding a 6 x 10 portico closer to the road; and enlarging and attaching the garage to the house 12 feet closer to road than the existing detached garage at 10800 Green Lake Trail (02.00159.00) based on findings of fact, staff report, site plan and narrative of record as presented.

Findings of Fact:

1. The Variance does not change the character of the neighborhood and is consistent with previous approvals on substandard lake lots.
2. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion and is viewed to be a reasonable use of the property within this zoning district.

3. The Variance as presented will not have an adverse impact on the neighborhood by relocating the dwelling with attached garage in a manner that complies with the front yard/road setback.

Second by Doug Greene. Roll call vote was taken and motion carried unanimously.

Robert and Katherine Robins – Mr. and Mrs. Robins were present at the hearing to request further review of their variance to rebuild, add onto, and raise a nonconforming cabin and replace an existing nonconforming detached garage, closer to the road, side property lines, and lake than the required setbacks, and to exceed impervious surface coverage requirements in the RRI Zoning District. The property is located at 12200 Mentzer Trail, (PIDS #02.01647.00 & 02.01645.00). Manager Perreault presented updated information on the Robins application. The survey provided included existing elevations of the cabin and garage and proposed elevation changes of the rebuilt cabin and garage. The lowest elevation of ordinary high watermark (OHW) is 900.2. The dwelling would remain ten feet from OHW mark of South Lindstrom Lake. Large boulders will create a retaining wall for foundation protection between the house and lake. The Chisago Chain of Lakes has a channels and weirs system to aid in controlling and to alleviate extremely high lake levels. Mr. and Mrs. Robins were available to address questions and concerns. Mr. Robins provided an overview of how he was addressing the required lowest floor elevation of 902.2 with the rebuild.

Chair Strand opened the public hearing and sought comment. No one was present to testify in the matter. With no additional person wishing to speak, ***motion*** by Doug Greene to close the public hearing. Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously. Each board member was asked for additional questions and comments. Clarifying questions were asked about the floodplain and OHW elevation. Manager Perreault indicated the cabin and garage cannot be below the elevation of 902.2 and there is no fill to be placed within the OHW. ***Motion*** by Doug Greene to approve the variance to rebuild and expand a nonconforming structure by adding to the elevation, a second story with additions and to replace the existing garage; and to be allowed more than the maximum impervious surface coverage in the RRI Zoning District at 12200 Mentzer Trail, (PID# 06.00835.00), based on findings of fact, staff report, site plan and narrative of record as presented with the following condition:

Condition:

1. Lowest floor elevation must be set at or above 902.2
2. Site grade/fill requirements of Section 10.5 (a) of the Floodplain Ordinance shall be met. DNR permit approvals and conditions shall be provided and met for all site modifications and impacts to lands at or below the OHW of South Lindstrom Lake prior to construction permit issuance.
3. In the absence of satisfying condition #2, acceptable alternate elevation method such as an above ground wet floodproofed crawl space or filled stem wall or other floodproofing methods shall be proposed and approved.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development and roadways.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance provides for flood protection.

Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously.

Motion by Gregg Carlson to adjourn. Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously. With no further business the meeting was adjourned at 8:15 p.m.