

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
January 25, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, January 25, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; and, Nikki Garner, Office 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: Doug Greene, John Sutcliffe, Becky Strand, Gregg Carlson and Chip Yeager. Absent: None. A quorum was established with all members present.

APPOINTMENT OF OFFICERS – Chair Carlson called for nominations for 2024 Chair. Chair Carlson nominated Becky Strand for Chair; second by John Sutcliffe. Upon multiple calls, no other nominations were made. All present voted and the nomination was unanimously affirmed.

Chair Strand called for nominations for 2024 Vice Chair. John Sutcliffe nominated Doug Greene for Vice Chair; second by Gregg Carlson. With no other nominations made, all present voted and the nomination was unanimously affirmed.

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

APPROVAL OF MINUTES – *Motion* by Gregg Carlson to approve the October 26, 2023 meeting minutes as presented; second by John Sutcliffe. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – *Motion* by John Sutcliffe to receive all applications, submittals, reports, and other materials into the record; second by Chip Yeager. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included the complete meeting packet with 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

Daniel Sager – Coordinator Gervais provided background information on property owner Daniel Sager's Variance request for property located at 11967 Wilcox Road in Sunrise Township (PID 09.00083.10), explaining that Sager was requesting a Variance in order to expand a legal non-conforming detached accessory structure closer to the Ordinary High Water Level (OHWL) of the Sunrise River than required. The .87± acre subject site was located within the Agricultural (AG) District / Sunrise River Overlay (SO) District / Shoreland Management District. Gervais reviewed details of the subject site and surrounding area, noting that department records suggested that the non-conforming property was created with County Board approval in 1972. Gervais shared that a Variance was granted by the County in 1996 allowing the dwelling – and presumably the detached accessory structure (garage) – to be constructed in their current locations which encroached on the required Sunrise River OHWL setback.

Gervais explained that the requested Variance would allow construction of an 1,100 sf accessory structure addition closer to the Sunrise River OHWL than required. The required setback was 200' and the proposed

addition would be located as close as approximately 126' from the OHWL, which equated to an approximate 74' Variance. The proposed addition would meet all other required setbacks. Gervais noted that, being located in the AG District, the subject site was not restricted in number of detached accessory structures or the overall amount of accessory storage space. The application materials showed that the proposed amount of impervious surface coverage was 21.47%, which was within the allowed maximum of 25%. Sager's application materials included a written narrative which addressed the State mandated practical difficulty standard, explaining that the lot was not deep enough to allow for compliance with the required OHWL setback yet the proposed addition would be in compliance with all other required setbacks; the proposed addition would be located as far westerly as possible so as to be as far from the Sunrise River as possible; due to lot size and shape, the only potential location for the proposed addition was within 200' of the OHWL of the river and the proposed addition would not be located any closer to the river than the existing structures; and, neighboring properties to the north and south had structures located similar distances from or even closer to the OHWL of the river and the proposed structure would not be visible from the river.

The Technical Review Committee met with Sager on January 10, 2024 and no concerns were identified. The Sunrise Town Board considered the request on January 18, 2024 and recommended approval with no conditions. The State mandated 60-day review period was scheduled to expire on March 3, 2024. The Department of Natural Resources (DNR) Area Hydrologist commented that the DNR may have objected to the Variance if the structure was proposed to be located closer to the river than the existing structures. Gervais commented that staff interpreted this to mean that the DNR was not objecting to the request being that the structure would not exacerbate the existing non-conforming setback.

Gervais concluded by offering a recommendation of approval with conditions and reviewed options available to the Board.

Chair Strand invited the applicant to address the Board. Daniel Sager approached the Board and was available to answer questions. Doug Greene inquired if a second driveway was planned. Sager responded that there was no plan for a second driveway. Gregg Carlson inquired if Sager had building plans or a sketch for the proposed addition. Sager produced and shared plans with the Board. Gregg Carlson asked clarifying questions about the design of the proposed addition, such as overall height and roofline, and Sager provided the specific requested details. Board members and Sager discussed drainage, with Sager explaining that drainage from the existing structure would continue to flow toward the river and drainage from the proposed addition would be directed toward the westerly property boundary / away from the river.

Chair Strand opened the public hearing and sought public comment. With no members of the audience wishing to speak, ***motion*** by John Sutcliffe to close the public hearing; second by Doug Greene. The **motion passed** and carried unanimously.

Motion by John Sutcliffe to adopt Resolution No. BOAA2024-0101, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing the expansion of a legal non-conforming structure closer to the Ordinary High Water Level than required on property located at 11967 Wilcox Road in Sunrise Township, as presented; second by Chip Yeager. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants an approximate 74' setback Variance, allowing the proposed detached accessory structure addition to be no closer than approximately 126' from the Ordinary High-Water Level (OHWL) of the Sunrise River.
2. Except as specifically required herein, the proposed detached accessory structure addition shall be constructed in general conformance with the application materials dated received December 27, 2023,

including that the addition shall be located on the westerly side of the existing detached accessory structure and maintain a 20' setback from the westerly and southerly property boundaries. Any significant deviation, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owner's expense.

3. The permit holder shall obtain a building permit prior to construction and, further, the structure 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.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUISNESS

None

NEW BUISNESS

ADOPTION OF 2024 MEETING SCHEDULE – Coordinator Gervais presented a draft meeting schedule for 2024 which, consistent with previously adopted meeting schedules, generally included regular meetings held at 7:00 pm on the last Thursday of the month and tours held at 8:15 am on the Wednesday prior to regular meetings. Gervais noted that, due to holidays, there were conflicts in November and December, and she suggested alternate dates for the Board's consideration. Gregg Carlson inquired if the November meeting would be held on the same evening as the Planning Commission's November meeting. Gervais responded that, unlike other years, there were no meeting dates which coincided with Planning Commission meeting dates.

Motion by Gregg Carlson to adopt the Chisago County, MN Board of Adjustment & Appeals 2024 Meeting Schedule as presented; second by Doug Greene. The **motion passed** and carried unanimously.

ANNUAL REVIEW OF PLANNING COMMISSION AND BOARD OF ADJUSTMENT AND APPEALS POLICY ON COMMISSION / BOARD STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE – Chair Strand introduced the topic of the annual review. Gregg Carlson inquired if the policy which was included in the meeting packet was the same policy that was approved in 2023. Gervais responded by explaining that what was included in the meeting packet was the policy adopted by the County Board in 2023 after review by the Planning Commission and Board of Adjustment & Appeals, as well as a staff report which outlined the Planning Commission's suggested changes and comments after its January 4, 2024 review of the policy. Carlson noted that he didn't have any concerns with the Planning Commission's two suggested changes to Section 13 and sought clarification on the Planning Commission's concerns with Section 7 (related to conflicts of interest). Gervais explained that, the way the policy was currently written, the County Attorney's Office played a lead role in determining if a conflict of interest existed for a Commission or Board member and the Planning Commission directed staff to consult with the County Attorney's Office to see if this was appropriate or if the language should be amended. Gervais further explained that Assistant County Attorney Fuge had been consulted and was currently in the process of reviewing Section 7. Carlson commented that he felt an individual Commissioner / Board member should be able to make a determination for himself / herself without involvement from the County Attorney's Office. John Sutcliffe concurred that individual members should be able to make a determination and consult with the County Attorney's Office at their own discretion. Doug Greene offered an opposing view, explaining that there may be a scenario in which one Commissioner / Board member may believe another Commissioner / Board member has an undisclosed conflict of interest and assistance from the County Attorney's Office may be necessary. Greene suggested that the policy should include language which addressed the scenario of a Commissioner / Board member or member of the public suspecting a conflict of interest for another Commissioner / Board member, which led to discussion about timing of the claim of conflict of interest. The

general consensus of the Board was to have staff relay the Board's concerns to the County Attorney's Office and seek guidance. Chair Strand sought clarification as to whether a member who had recused him/herself would be able to provide testimony during the public hearing. Gervais responded that members who recused themselves had the ability to provide public testimony. Strand then suggested that the policy be amended to specifically state that members who recused themselves had the ability to provide public testimony. Gregg Carlson inquired about a hypothetical situation in which only three Board members were present (the minimum needed for a quorum) and one of those members recused him/herself due to a conflict of interest. Gervais responded that a quorum was needed in order for the Board to take action and, ideally, a member with a conflict of interest would disclose this conflict in advance so that necessary steps could be taken.

Chair Strand suggested an amendment to Section 13. (F) 1. (j) as follows: "The Planning Commission or Board of Adjustment and Appeals addresses the subject matter through deliberation, questions to citizens applicants and/or their representatives and staff, and reactions and statement of position on the subject." Following discussion, fellow Board members concurred with Strand's suggested amendment.

Chair Strand suggested an amendment to Section 15. as follows: "The Chair is a voting member of the Planning Commission and Board of Adjustment and Appeals and may make motions. In addition, the duties and powers of the officers of the Planning Commission and Board of Adjustment and Appeals shall be as follows:" Chair Strand suggested an alternate amendment as follows: "The Chair is a voting member of the Planning Commission and Board of Adjustment and Appeals and may make motions. In addition, the duties and powers of the officers of ~~the Planning Commission~~ shall be as follows:" Following discussion, fellow Board members concurred with Strand's suggested amendment.

Gregg Carlson sought clarification on Section 16. Member Participation (A) and whether the County recognized a distinction between excused absences and unexcused absences. Gervais responded that any advance notice of an absence would be counted and documented as an excused absence but understood that any absence – whether excused or unexcused – could be considered by the County Board as basis for removing a Commissioner or Board member.

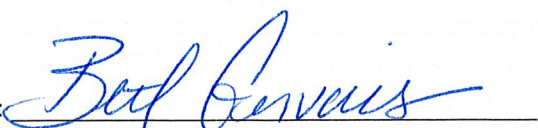
Motion by Gregg Carlson to recommend approval of the *Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure* as amended; second by Chip Yeager. The **motion passed** and carried unanimously.

MISCELLANEOUS

Chair Strand reported that she had attended a presentation by Ben Winchester on January 24, 2024 which was hosted by the Chisago County Collaborative Initiative. Strand shared insights from the presentation with fellow Board members, noting that the presentation focused on rural development and housing concerns.

ADJOURN MEETING – Motion by John Sutcliffe to adjourn; second by Doug Greene. The **motion passed** and carried unanimously. The meeting was adjourned at 7:43 p.m.


Rebecca Strand
Chair

ATTEST: 
Beth Gervais
Land Services Coordinator