

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
March 28, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, March 28, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator.

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: Gregg Carlson, Doug Greene, John Sutcliffe, Chip Yeager, and Chair Becky Strand. Absent: None. A quorum was established with all members present.

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

APPROVAL OF MINUTES – Motion by John Sutcliffe to approve the February 29, 2024 meeting minutes as presented; second by Doug Greene. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Chip Yeager to receive all applications, submittals, reports, and other materials into the record, including email correspondence from Chisago Lake Town Board Chair Sherry Stirling dated March 24, 2024 pertaining to the Karnes Variance Request (agenda item 6b); second by Gregg Carlson. 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 and attachments. Copies of all correspondence and meeting materials were made available at the entrance to the County Board Room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Jason Budzynski & Tiffany Pearson Budzynski – Coordinator Gervais provided background information on Jason Budzynski's & Tiffany Pearson Budzynski's Variance request for property located at 1498 509th Street in Nessel Township (PID 06.00463.00), explaining that the Budzynskis were requesting a Variance in order to expand their legal non-conforming dwelling and allowing more impervious surface coverage than permitted. Gervais further explained that the property owners desired to expand their dwelling by adding a second story and that they were seeking approval for the existing 34% of impervious surface coverage. Gervais reviewed details of the subject site and surrounding area, sharing that the .20± acre property, located on the eastern shore of West Rush Lake, was considered legal non-conforming as was the dwelling. The subject site was located in the Rural Residential I (RRI) District / Shoreland Management District.

Gervais reviewed details of the proposed expansion, explaining that the property owners wanted to add a second story to the one story dwelling, and that the addition would provide two additional bedrooms and one additional bathroom. The dwelling footprint would remain the same; the proposed addition would not exacerbate the non-conforming Ordinary High Water Level (OHWL) setback; and, the amount of impervious surface coverage would remain the same. In regard to impervious surface coverage, Gervais shared that the property owners had provided an impervious surface calculation worksheet indicating an overall amount of 34% where the maximum allowed was 25%. Gervais expressed concern with the accuracy of the worksheet and noted that the application materials did not provide an explanation or justification for the existing / proposed amount of coverage. Additionally, Gervais shared that historical photos revealed that the hard surfaced driveway had been significantly expanded sometime between 2013 and 2022 without Variance approval.

Gervais noted that the driveway expansion likely elevated a compliant amount of impervious surface coverage to a non-compliant amount.

Gervais stated that the application materials included a written narrative addressing the State mandated practical difficulty standard, explaining that the proposed upwards expansion was the most reasonable way to achieve their goal for additional square footage, adding that a second story addition would not affect setbacks or disturb the neighbors' views; the property was unique in that it was created and developed prior to the County's adoption of official land use controls; and, the general appearance of the dwelling would not change in that the existing half-log siding would be used for the addition and at least one neighboring property also had a two story dwelling.

The Technical Review Committee met on March 13, 2024. Gervais shared that no concerns were identified during the meeting but the Sanitarian and Building Official later determined the need for a septic compliance inspection prior to issuance of a Certificate of Occupancy for the dwelling addition. The Nessel Town Board considered the request on March 13, 2024 and recommended approval with no conditions. The State mandated 60-day review period was scheduled to expire on April 27, 2024.

Gervais concluded by offering a recommendation of approval of a Variance to expand the non-conforming dwelling and denial of a Variance to exceed the maximum allowable amount of impervious surface coverage, explaining that the recommendation was based on the property owners not providing sufficient demonstration of compliance with the State mandated practical difficulty standard for this portion of the request and after learning that a significant amount of impervious surface had been added since 2013 without Variance approval. Gervais provided draft Findings of Fact and conditions for the Board's consideration. And, in the event that the Board supported the request as presented by the property owners, Gervais provided the Board with alternate draft Findings of Fact and conditions of approval for consideration. Gervais reviewed options available to the Board.

Chair Strand invited the property owners to address the Board. The property owners' representative, Jon Ramey, approached the Board and was available for questions. Chip Yeager inquired if the Budzynskis owned the property at the time that the driveway was expanded after 2013. Ramey responded in the affirmative. Gregg Carlson called Ramey's attention to driveway images from 2013 and 2022, commenting that the driveway had clearly been expanded. Carlson noted that staff had suggested that the amount of impervious surface coverage could be brought into compliance by removing a portion of the driveway or reconstructing it with pervious materials. Carlson sought clarification from Gervais, asking if the property owners would need to jack hammer a portion of the driveway in order to remove it. Gervais responded that the property owners could replace all or a portion of their driveway with pervious materials, and offered an example of another Chisago County property owner who was currently in the process of replacing his concrete driveway with pervious pavers in order to achieve compliance. Chair Strand inquired if Ramey knew when the driveway was expanded. Ramey responded that he was not aware. Chair Strand shared that, based on a staff report and photos prepared for a Variance request for a neighboring property in 2020, the driveway had not yet been expanded in 2020. John Sutcliffe noted that the detached garage also appeared to have been expanded between 2013 and 2022 and inquired if a building permit had been issued. Gervais responded that she was not sure if a building permit had been issued. Ramey offered that the garage roof had been replaced but the garage had not been expanded. Carlson asked Gervais if property owners are required to obtain a permit prior to hard surfacing their driveways. Gervais responded that permits were not required for surfacing driveways. Carlson followed-up by stating that, without permits, property owners could increase the amount of impervious surface coverage without the County's knowledge.

Chair Strand opened the public hearing and sought public comment. With no members of the audience wishing

to speak, ***motion*** by Gregg Carlson to close the public hearing; second by Doug Greene. The **motion passed** and carried unanimously.

Motion by Chair Strand to adopt Resolution No. BOAA2024-0301, 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 and denying a Variance allowing more impervious surface coverage than permitted on property located at 1498 509th Street in Nessel Township, as presented; second by Chip Yeager. Gregg Carlson sought and received clarification on the motion. The **motion passed** 4-1 with Carlson voting against the motion.

Approved Conditions:

1. **The Variance request to expand a legal non-conforming dwelling which is located closer to the Ordinary High Water Level (OHWL) than required by the Chisago County Shoreland Management Ordinance is approved, allowing for the construction of a second story.** The dwelling footprint shall not increase and the dwelling, upon completion, shall not be located any closer to the OHWL than the existing dwelling.
2. **The Variance request to exceed the maximum allowable amount of impervious surface coverage by 9%± is denied,** requiring that the property owners reduce the total amount of impervious surface to an amount no greater than 2,178 sf (lot area of 8,712 sf x 25% = 2,178 sf) through elimination of existing impervious surfaces and/or replacement of existing impervious materials with new pervious materials. Further, reduction of impervious surface coverage to an amount no greater than 2,178 sf shall be complete within one year from the date of this resolution.
3. The dwelling addition shall be constructed in general conformance with the application materials dated received February 15, 2024 and the updated building plans dated received March 6, 2024. Any significant deviation from the approved request, 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.
4. The permit holder shall obtain a building permit prior to construction and, further, the dwelling addition shall comply with all applicable codes and regulations except as permitted by this Variance.
5. The permit holder shall request and obtain a septic compliance inspection prior to issuance of a Certificate of Occupancy for the dwelling addition.
6. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Kelly & Tana Karnes – Coordinator Gervais provided background information on Kelly & Tana Karnes' Variance request for property located at 29305 Glader Boulevard in Chisago Lake Township (PID 02.01311.00), explaining that the Karnes' were requesting a Variance in order to expand their legal non-conforming dwelling. Gervais reviewed details of the subject site and surrounding area, sharing that the .30± acre subject site, generally located east of the T-intersection of Glader Boulevard and Olympic Trail on the south side of South Center, included land originally platted as Lot 7, Addition to J.G. Holt's Beach (1948) as well as land presumably acquired following a road reconstruction / realignment project. The subject site and dwelling were both considered legal non-conforming, and the site was located within the rural Residential I (RRI) District / Shoreland Management District.

Gervais reviewed details of the proposed expansion, explaining that the property owners wanted to expand their non-conforming dwelling by raising the height of the roof of the original attached garage (previously converted to living space) two feet to match the roof height of the rest of the dwelling. The only proposed expansion of the non-conforming dwelling was the height, which meant that the footprint of the dwelling would not change and the proposed expansion would not exacerbate the non-conforming OHWL setback. The proposed expansion would not create any additional living / habitable space.

Gervais explained that the property owners had provided a written narrative to explain what they were hoping to accomplish through the Variance request and, while the narrative didn't directly address the State mandated practical difficulty standard, staff offered that the request was viewed to be reasonable in that the proposed expansion would not increase the footprint of the dwelling or exacerbate the non-conforming OHWL setback; the property was unique in that a majority of the subject site was platted and developed prior to the County adopting official land use controls (i.e., pre-existing development); and, that the proposed expansion would be consistent with existing development on the subject site as well as being consistent with the essential character of the neighborhood.

In regard to impervious surface coverage, Gervais shared that the property owners had provided an impervious surface calculation worksheet, as well as a supporting sketch, indicating that the existing / proposed amount of impervious surface coverage was 21%. Staff had questioned the property owner about the accuracy of the worksheet, noting that, per the County's GIS Viewer, there were other impervious structures on the subject site which were not included on the worksheet, including a portion of Olympic Trail. Gervais also noted that the worksheet may or may not have included all sidewalks and hard surfaced areas near and around the structures and that the dimensions provided for the driveway did not seem accurate. When staff questioned property owner K. Karnes about the accuracy of the impervious surface calculation worksheet, he offered no indication that he was willing to make any adjustments being that the requested Variance had no impact on the amount of impervious surface coverage. Gervais speculated that the actual amount of impervious surface coverage exceeded 25% and suggested that the Board may wish to explore the issue further with the property owners.

The Technical Review Committee met on March 13, 2024. Gervais shared that the Committee discussed the concern about impervious surface coverage but no other concerns were identified. The Chisago Lake Town Board considered the request on March 19, 2024 and recommended approval with no conditions and a comment that "footprint of garage is not changing – lot lines need to [be] clarified". Gervais then acknowledged the email correspondence from Town Board Chair Sherry Stirling and read the email into the record. In summary, Chair Stirling questioned the property boundaries as shown on the County's GIS Viewer, the legal description provided by the property owners, and the amount of impervious surface coverage if the property boundaries were shown incorrectly on the GIS Viewer. The State mandated 60-day review period was scheduled to expire on May 4, 2024.

Gervais concluded by restating her concerns with the accuracy of the impervious surface calculation worksheet but ultimately offered a recommendation of approval. Gervais provided draft Findings of Fact and conditions for the Board's consideration but, in the event that the Board shared concerns about the property boundaries or the overall amount of impervious surface coverage, suggested that the Board could also table the request in order to allow the property owners time to provide a survey which was in the process of being prepared. Gervais reviewed options available to the Board.

Chair Strand invited the property owners to address the Board. Property owner Kelly Karnes approached the Board and was available for questions. Karnes shared that he was in the process of having a survey prepared and commented that the property boundaries were appearing to be slightly different than what the County's GIS Viewer showed and that he may be approaching the Chisago Lake Town Board about the possibility of vacating a portion of Glader Boulevard Right-of-Way that extended into his yard immediately north of his detached garage. Doug Greene inquired about surface materials immediately westerly of the detached garage. Karnes responded that the area in question had a concrete surface. Gregg Carlson noted that the site plan submitted by the property owners didn't accurately reflect the true property boundaries and inquired if the surveyor had provided clarification. Karnes responded that the surveyor believed the true property boundaries were slightly south of what was illustrated on the County's GIS Viewer, such that the northerly neighboring dwelling was not located on the subject site as was shown on the GIS Viewer. Karnes added that the "notch" adjacent to Glader

Boulevard was likely accurate and was the reason he would be approaching the Township about a possible Right-of-Way vacation. Chip Yeager shared that he personally recalculated the impervious surface calculation worksheet using an adjusted square footage for the deck and found that the amount of impervious surface coverage was likely just below 25%. Yeager clarified that his calculation was based on the assumption that all other dimensions provided by the property owners were accurate. Carlson asked clarifying questions about proposed construction plans and roofing materials. Karnes responded that he would be using engineered trusses to raise the height of the northerly portion of the structure to match the rest of the structure and he would be using the same metal roofing material as was on the rest of the structure.

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 Gregg Carlson to adopt Resolution No. BOAA2024-0302, 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 on property located at 29305 Glader Boulevard in Chisago Lake Township, as presented; second by Chip Yeager. John Sutcliffe suggested a friendly amendment to require the submission of a survey to the Chisago County Department of Environmental Services. Carlson and Yeager accepted the amendment. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants a Variance allowing the expansion of a legal non-conforming structure by increasing the height of the northerly portion of the dwelling (the portion which was originally constructed as an attached garage) by two feet to match the height of the remaining portion of the dwelling.
2. The dwelling expansion shall be constructed in general conformance with the application materials dated received February 21, 2024. Any significant deviation from the approved request, 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.
3. Roofing materials for the proposed expansion area shall be the same type and color as the roofing materials for the remaining portion of the dwelling.
4. The permit holder shall obtain a building permit prior to construction and, further, the dwelling expansion shall comply with all applicable codes and regulations.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.
6. The permit holder shall provide the Chisago County Department of Environmental Services with a copy of the recently prepared survey prior to or at time of building permit application to keep on file for future reference.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUISNESS

None

NEW BUISNESS

None

MISCELLANEOUS

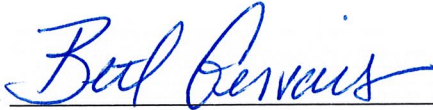
Gregg Carlson inquired if the Planning Commission had discussed the Board's February 29, 2024 recommendation that the amount of accessory storage space within the Rural Residential Districts be increased or the possibility of not counting attached garages toward the amount of accessory storage space. Chip Yeager shared that the current draft Zoning Ordinance included an increase from a maximum of 2,000 sf of accessory storage space to 2,400 sf. John Sutcliffe added that the issue would be discussed during the Planning Commission's public hearing to consider the draft ordinance. Board members briefly discussed their views on including attached garages in the overall amount of accessory storage space.

ADJOURN MEETING – Motion by Gregg Carlson to adjourn; second by John Sutcliffe. The **motion passed** and carried unanimously. The meeting was adjourned at 7:47 p.m.



Rebecca Strand
Chair

ATTEST:



Beth Gervais
Land Services Coordinator