



Chisago County, MN
BOARD OF ADJUSTMENT & APPEALS
Meeting Agenda
May 30, 2024 | 7:00 pm

Chisago County Government Center | 313 N. Main Street | Center City, MN 55012

Tour Time and Date: Wednesday, May 29, 2024 at 8:15 am
Departing from Chisago County Highway Department, 31325 Oasis Road, Center City, MN

1. **Call to Order and Pledge of Allegiance**
2. **Roll Call and Determination of a Quorum**
3. **Approval of Agenda**
4. **Approval of Minutes**
 - a. March 28, 2024
5. **Receive all Materials and Submittals into Record**

Previously Distributed Materials:

 - a. Complete meeting packet including staff report(s) with attachments for agenda item(s) 6a
6. **Public Hearings – New Applications**
 - a. **Lisa Kettler and Cassandra Murray** – Property owner Lisa Kettler and applicant Cassandra Murray are requesting a Variance allowing reduced township Right-of-Way and Ordinary High Water Level setbacks for a new dwelling and reduced property boundary setbacks for the installation of a new septic system in the Rural Residential II (RRII) District / Shoreland Management District. The property is located at 32710 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01077.00).
7. **Public Hearings – Continued Hearings**

None
8. **Old Business**
9. **New Business**
10. **Miscellaneous**
11. **Adjourn Meeting**

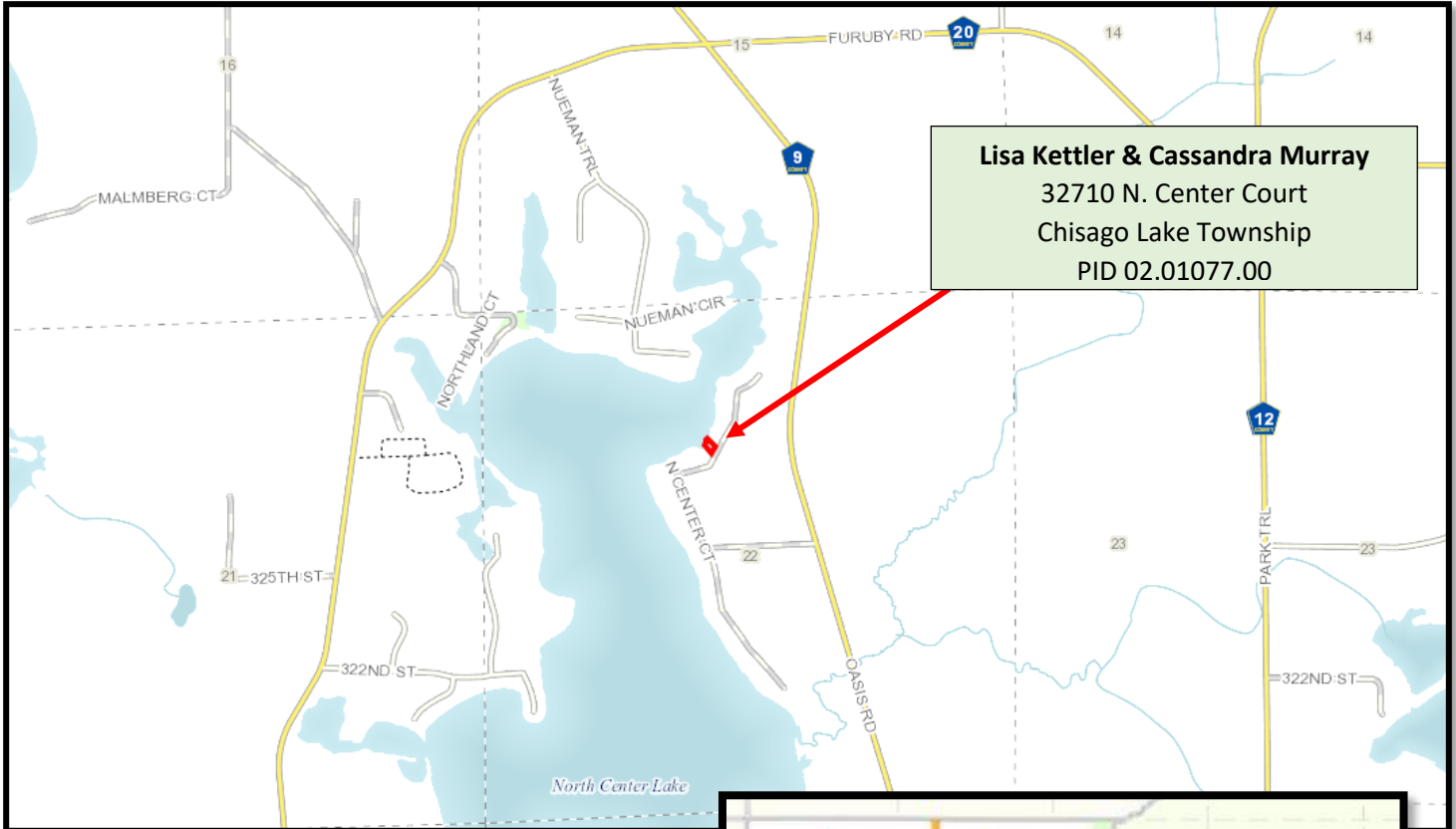
The next meeting is scheduled for Thursday, June 27, 2024 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time:

Wednesday, May 29, 2024, at 8:15 am

Departing from Chisago County Highway Department
31325 Oasis Road, Center City, MN 55012



Lisa Kettler & Cassandra Murray

32710 N. Center Court

Chisago Lake Township

PID 02.01077.00



**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



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Dan Cahill, Code Enforcement Officer
 Beth Gervais, Land Services Coordinator
 SUBJECT: Variance to Encroach on Required Right-of-Way, Ordinary High Water Level, and Property Boundary Setbacks
 32710 N. Center County, Chisago Lake Township
 DATE: May 30, 2024

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider Variances to the Zoning, Shoreland Management, and Subsurface Sewage Treatment Systems Ordinances in order for a new dwelling to be closer to the township Right-of-Way and Ordinary High Water Level (OHWL) than required and for a new septic system to be closer to a property boundary than required in the Rural Residential II (RRII) District / Shoreland Management District.

SITE & APPLICATION INFORMATION

Applicant(s):	Cassandra Murray
Property Owner(s):	Lisa Kettler
Property Address:	32710 N. Center Court Chisago Lake Township
General Location:	Section 22, Township 34, Range 20
PID:	02.01077.00
Property Area:	.20± Acres
Current Zoning:	Rural Residential II (RRII) District / Shoreland Management District
Adjacent Zoning:	
North:	Rural Residential II (RRII) District / Shoreland Management District
South:	Rural Residential II (RRII) District / Shoreland Management District
East:	Rural Residential II (RRII) District / Shoreland Management District
West:	North Center Lake
Date Application Received:	April 9, 2024
Date Application Complete:	April 24, 2024
60-Day Review Period:	June 23, 2024

BACKGROUND

Property owner Lisa Kettler and applicant Cassandra Murray are proposing to redevelop their lakeshore property by demolishing the existing seasonal dwelling and constructing a new dwelling and installing a new septic system (holding tank). The subject site is located at 32710 N. Center Court in Chisago Lake Township.



SITE ANALYSIS

The subject site was plotted as Lot 7, Chi-Gak-Wa Shores in 1955 and is generally located on the northeastern shore of North Center Lake on North Center Court. Records from the Chisago County Assessor's Office suggest that the original / existing 20' x 38' (760 sf) dwelling was constructed in 1956. The left image below shows the dwelling in May 1972 and the right image below shows the same dwelling in 2011.



Photo taken in 1972; east wall (road side)



Photo taken in 2011; east wall (road side)

Per the attached survey, the site is approximately 90' at the eastern property boundary (roadway); approximately 62' at the western property boundary (lakeshore); and, approximately 143' deep. Although the subject site does not meet current dimensional requirements, it was plotted prior to the County's adoption of official land use controls and is therefore considered legal non-conforming. Per the application materials, the existing dwelling is situated approximately 13.9' from the eastern property boundary (township Right-of-Way), 31' from the Ordinary High Water Level (OHWL), 10.6' from the southerly property boundary, and 20'+ from the northerly property boundary, where the required setbacks are 40' from township Right-of-Way, 75' from OHWL, and 10' from the side yards. The dwelling, having been constructed prior to the County's adoption of official land use controls, is considered legal non-conforming.

Topography of the site includes elevations ranging from 907' at the eastern property boundary / township Right-of-Way to 888' near the western property boundary / lakeshore. The OHWL of North Center Lake is 900.2', as identified in the adjacent image. A significant portion of the site is located within the FEMA flood zone, as illustrated with an aqua line and hatch in the image on the following page, where development is prohibited by the County's Floodplain Management Ordinance.

The subject site is currently developed with a single-story 20' x 38' (760 sf) dwelling with deck structures on the westerly and southerly sides of the dwelling. The exact



dimensions and setbacks of the decks are unknown; however, they are certainly encroaching on at least the required OHWL and township Right-of-Way setbacks. The written narrative explains that “there is no sound foundation” underneath the dwelling and this has led to a sagging roof and soft spots in the floor. Additionally, the original septic system is failing and needs to be replaced.

The application materials indicate that the existing amount of impervious surface coverage is 16.7% where the maximum allowable amount is 25%.



The subject site is located in the Rural Residential II (RRII) District / Shoreland Management District and is surrounded by the RRII District / Shoreland Management District to the north, south and east, and bordered by North Center Lake to the west. Surrounding properties located along the westerly side of N. Center Court are similarly sized and developed with year-round dwellings / seasonal cabins and related accessory structures. The majority of these parcels appear to have structures that encroach on the required setbacks, presumably some having been constructed prior to the County’s adoption of official land use controls and others permitted by Variance.

PROPOSAL ANALYSIS

The applicant submitted updated / amended application materials on May 10, 2024. The property owner and applicant are requesting a Variance in order to redevelop their lakeshore property by demolishing the existing single-story 760 sf dwelling and decks and constructing a new story-and-a-half 28’ x 50’ (1,400 sf) dwelling. Based on the attached building plans (submitted with the original application), the structural footprint appears to include a deck or covered porch on the northwesterly corner / lakeside of the dwelling, so the true amount of habitable space is unknown. The proposed dwelling will be constructed in generally the same location as the existing dwelling and will maintain the existing non-conforming OHWL setback of 31’; however, it will further encroach on the township Right-of-Way setback with a proposed 10’ Right-of-Way setback (currently 13.9’). The proposed dwelling is shown to meet both the southerly and northerly side yard setbacks.

The property owner and applicant are also proposing to replace the failing septic system and are requesting a setback Variance to install a single 2,500 gallon holding tank. Staff is not certain of the location of the existing system; however, the proposed septic system is shown to be situated in the extreme southeasterly corner of the property, 1’6” from the southerly property boundary and 10’ from the township Right-of-Way where the required setbacks are 10’. It’s very important to note that the Variance requested for the septic system would normally be processed as an administrative Variance; however, given that the property owner and applicant are requesting other non-administrative setback Variances, it seemed more efficient to process all Variances together.

In an effort to address the State mandated practical difficulty standard, the written narrative explains that the lot size is substandard; that it would not be possible to meet all required setbacks; and, the design of the proposed structure will ensure that it will not alter the essential character of the

surrounding area. Staff does agree that the subject site is substandard in terms of lot area and lot dimensions, and that it would not be possible to meet all required setbacks as the distance between the OHWL and township Right-of-Way is approximately 75' and the County requires a total of 115' for setbacks (75' setback from OHWL and 40' setback from township Right-of-Way) in addition to requiring that the minimum dwelling width is 20', and that the proposed dwelling with fit the essential character of the surrounding area. However, staff does have concerns with the proposed exacerbation of the non-conforming structural setback from the township Right-of-Way. While staff can appreciate the property owner's physical limitations and desire for more living space on the main level, this in itself is not justification for the proposed Variance. Staff believes that it would be possible to construct a new dwelling while not further encroaching on the non-conforming setbacks. This may mean that the dwelling is smaller than desired, but the County only requires that the dwelling be a minimum of 960 sf.

The original application materials indicated a proposed impervious surface coverage amount of 25% which is the maximum allowable amount. The amended application materials – stamp dated received May 10, 2024 – indicate that the modifications have led to a slight decrease in impervious surface coverage, which means that the proposed amount of impervious surface coverage is still at or below 25%.

The table below provides a comparison of minimum dimensional standards for the RRII District / Shoreland Management District and corresponding information for the proposed Variance, with the Variance request shown in red.

	RRII District / Shoreland Management District Standards	Existing	Proposed
Road Setback	Structures – 40'; Septic Systems – 10'	Dwelling - 13.9'; Septic System - unknown	Dwelling – 10' ; Septic System – 10'
Ordinary High Water Level (OHWL) Setback	Structures – 75'; Septic Systems – 50'	Dwelling – 31'; Septic System – unknown	Dwelling – 31' ; Septic System – 50'
Side Yard Setback	Dwellings – 10'; Septic Systems – 10'	Dwelling – 10.6' from southerly property boundary and 20'+ from northerly property boundary; Septic System – unknown	Dwelling - 15' from southerly property boundary and 13' from northerly property boundary; Septic System – 1'6" from southerly property boundary and 10'+ from northerly property boundary
Impervious Surface Coverage	25%	16.7%	25%

REVIEW PROCESS

The Technical Review Committee met with applicant Cassandra Murray on May 8, 2024. The Committee reviewed the original application materials and expressed concerns with the scale of the proposed septic system and the proposed exacerbation of the non-conforming dwelling setbacks. In regard to the septic system, the County Sanitarian noted that the property only required one holding tank rather than two. The significance of this comment is that one holding tank would reduce the amount of Variance needed. Staff also expressed concern with the increased dwelling footprint and the subsequent exacerbation of non-conforming OHWL and township Right-of-Way setbacks. The applicant was advised to reduce the footprint so as not to exacerbate the non-conforming setbacks while still meeting minimum architectural requirements. In response to the discussion, the applicant submitted amended application materials on May 10, 2024. The amended materials show one holding tank, thereby reducing the Variance needed, and an altered dwelling footprint which maintains the existing non-conforming OHWL setback but still exacerbates the non-conforming Right-of-Way setback.

The Chisago Lake Town Board considered the amended request on May 21, 2024 and recommended approval with conditions that the dwelling be set back 15' from Right-of-Way (rather than the proposed 9' setback) and that all drainage goes toward the lake.

The State mandated 60-day review period is scheduled to expire on June 23, 2024.

VARIANCE ANALYSIS

A Variance to the provisions of the Zoning Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the Ordinance imposes particular hardship or practical difficulties to the property owner in the use of the land. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. A Variance may be granted only in the event that the following circumstances exist. Staff has provided notes (shown in *italics*) for each of the circumstances for the Board's consideration.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control;

The application materials suggest that the subject site is a "substandard size lot" and that it would be impossible to meet all required setbacks. Being that the property was plotted in 1955 and developed in 1956, both the property and dwelling are considered legal non-conforming as they pre-date the County's adoption of official land use controls. This circumstance is often referred to as "pre-existing development". The current and past property owners have had no control over this circumstance.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

Literal interpretation of the Zoning Ordinance would not deprive the applicants of rights commonly enjoyed by other property owners within the RRII District / Shoreland Management District. Properties in the RRII District / Shoreland Management District have the right to be developed for single family dwelling purposes, in addition to other uses identified by the Zoning Ordinance, and the subject site is presently developed with a single family dwelling. As a legal non-conforming structure,

the property owner has a statutory right to continue – including through repair, replacement, restoration, maintenance or improvement – use of the dwelling in its current location.

3. That the special conditions or circumstances do not result from the actions of the owner(s) or under previous owner(s) under the current law;

The subject site was plotted in its current configuration in 1955 and developed in 1956 and the County did not adopt official land use controls until the early 1970s, which means that neither the current nor the previous property owner(s) created the special circumstance of pre-existing development.

4. That granting the Variance requested will not result in allowing a use otherwise not permitted in the same district;

Dwellings and septic systems are Permitted Uses in the RRII District / Shoreland Management District; therefore, the Variance is not considered a use Variance.

5. The Variance requested is the minimum Variance which would alleviate the hardship;

While the property owners are proposing to construct the new dwelling in approximately the same location as the existing dwelling (the same OHWL setback and the generally same setbacks from the side property boundaries), the applicants are requesting a Variance to encroach on the required ROW setback where it does presently encroach with its legal non-conforming dwelling.

6. The Variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone;

Staff does not believe that the Variance, if approved, would be detrimental to the purposes or intent of the Zoning or Shoreland Management Ordinances or to other properties in the RRII District / Shoreland Management District. The Zoning Ordinance allows for Variances from setback requirements when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. Further, the County has granted similar Variances in the distant and recent past.

7. Economic conditions or circumstances alone shall not be considered in the granting of a Variance request if a reasonable use of the property exists under the terms of this Ordinance; and

The application materials do not cite economic conditions as a practical difficulty.

8. In the Flood Plain District, no Variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by State law.

While the approximate western half of the subject site is located in a floodplain district, the proposed dwelling and septic system are shown to be located entirely outside of the floodplain district.

The Board is tasked with determining whether or not a “practical difficulty” exists prohibiting the property owner from using the land in a manner consistent with the Zoning Ordinance. Minnesota Statute 394.27 offers the following guidance:

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the

*applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a **reasonable** manner not permitted by an official control; the plight of the landowner is due to circumstances **unique** to the property not created by the landowner; and the variance, if granted, will not alter the **essential character** of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.*

As indicated above, "practical difficulties" is a legal standard that the County must apply when considering applications for Variances. It's a three-factor test, including: reasonableness, uniqueness, and essential character. In order to constitute practical difficulties, all three factors of the test must be satisfied. Descriptions of the three factors are offered below for the Board's consideration:

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the Variance. For example, if the Variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the Variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential Character

The third factor is that the Variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the Variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

FINDINGS OF FACT

Zoning Ordinance Section 8.06 Variances, E. states that in considering all requests for a Variance, the Board of Adjustment and Appeals shall make certain Findings of Fact. Staff has provided proposed findings, shown in *italics* below, for the Board's consideration.

Criteria #1 The proposed action will not impair an adequate supply of light and air to adjacent property;

<i>Finding #1</i>	<i>The proposed dwelling will be situated 15' from the northerly property boundary and 13' from the southerly property boundary (side yards where the required setback is 10'), bordered by a public roadway along the western property boundary and bordered by a public body of water along the eastern property boundary. The County finds that the proposed dwelling will be sufficiently distanced from neighboring properties so as not to impair an adequate supply of light and air to adjacent properties.</i>
Criteria #2	The proposed action will not unreasonably increase the congestion in the public right-of-way;
<i>Finding #2</i>	<i>The proposed use of the property will not change from the existing use and the proposed action will result in the dwelling being closer to the Right-of-Way than the existing dwelling. The County finds that the proposed use will not increase the amount of traffic generated at the subject site or increase the amount of congestion on Center Court.</i>
Criteria #3	The proposed action will not increase the danger of fire or endanger the public safety;
<i>Finding #3</i>	<i>The property owner will be required to obtain a building permit prior to construction of the proposed dwelling, and it will therefore be constructed in compliance with all applicable codes. Being compliant with all applicable codes will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety. The County finds that the proposed action will have no impact on the danger of fire or public endangerment.</i>
Criteria #4	The proposed action will not unreasonably cause undue negative impact to surrounding properties;
<i>Finding #4</i>	<i>Being that the subject site is currently developed with a single family dwelling and the proposed dwelling will not change how the property is being used. The County finds no evidence to suggest that there will be any negative impact to surrounding properties.</i>
Criteria #5	The proposed action will not cause an unreasonable strain upon existing facilities and services;
<i>Finding #5</i>	<i>The proposed action will not change the use of the subject site; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.</i>
Criteria #6	The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and
<i>Finding #6</i>	<i>The proposed action will not change the use of the subject site; therefore, the County finds that there will be no negative fiscal impact upon the County or school district.</i>
Criteria #7	The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.
<i>Finding #7</i>	<i>The subject site is zoned Rural Residential II (RRII) District / Shoreland Management District and Zoning Ordinance Section 5.08 allows dwellings as a permitted use in the RRII District. The Zoning Ordinance also allows for Variances from setback requirements when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action is in keeping with the spirit and intent of</i>

the Chisago County Zoning Ordinance and satisfies the three-factor test of uniqueness, reasonableness and essential character.

STAFF RECOMMENDATION

Staff believes that the requested Variance is reasonable based on the following considerations:

- The property and existing dwelling constitute pre-existing development for which the property owner had no control.
- The proposed dwelling will not exacerbate the Right-of-Way setback encroachment and it will meet or exceed the required side yard setbacks.
- The proposed dwelling is reasonably sized for the subject site while still meeting the required minimum dwelling size (960 sf required; 1,088 sf proposed).
- It would be impossible to construct a dwelling on the subject site which meets all minimum architectural requirements and the required setbacks.

Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the requested Variance with recommended Findings of Fact (see above) and conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended condition(s):

1. This approval grants the following Variances:
 - a. A 3'9" Variance to the township Right-of-Way setback requirement allowing the proposed dwelling' from the Center Court Right-of-Way. This Variance will allow the proposed dwelling to be located closer to the township Right-of-Way than the existing dwelling.
 - b. A Variance to the Ordinary High-Water Level (OHWL) setback requirement allowing the proposed dwelling to be not to change from the non-conforming existing (31') OHWL of North Center Lake.
 - c. A 1'6" Variance to the township Right-of-Way setback requirement for the south side of the septic system. It would also, correct the failing septic system and replace it with a new installing a new septic system (holding tank).
2. Except as specifically required herein, the dwelling shall be constructed in general conformance with the application materials, including "proposed" site plan, dated received May 10, 2024. 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 dwelling 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.

OPTIONS

1. **Approve** the Variance based on the Findings of Fact and conditions as presented or amended.

2. **Deny** the Variance based on amended Findings of Fact or other contributing factors deemed appropriate. The following are suggested findings to assist in motion making. The Board is able to modify these findings and/or make other findings as necessary.
 - a. The request for Variance, as presented, is not consistent with the Chisago County Zoning Ordinance due to _____.
 - b. The proposed Variance will have a negative impact to surrounding properties due to _____.
 - c. The request for Variance, as presented, does not meet the threshold for “practical difficulty” as required by MN Statute 394.27 and Chisago County Zoning Ordinance Section 8.06 Variances, D. because of _____.
3. **Table** action to allow for further review and consideration. The current review period is scheduled to expire on June 23, 2024, so the Board would also need to extend the review period. Staff would recommend extending the review period by an additional 60 days which is the maximum allowed per Minnesota Statute 15.99.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2024-0501, a resolution approving a Variance allowing reduced Right-of-Way and Ordinary High Water Level for a dwelling and reduced property boundary setbacks for a septic system on property located at 32710 N. Center Court in Chisago Lake Township, as presented or amended.

If the Board chooses to deny the request for Variance, staff will prepare a revised resolution based on the Findings of Fact established by the Board.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Table showing existing and proposed setbacks
 - d. Survey showing existing conditions
 - e. Survey / site plan showing proposed conditions
 - f. Building plans (excerpt)
 - g. OSTP Preliminary Evaluation Form (with septic designer notation on need for Variance)
 - h. Impervious surface calculations worksheets
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2024-0501



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 24-00470

Township Chisago Lake S/T/R 22/34/20 PID# 02.01077.00

Project Address 32710 N. Center Court Center City, MN

Property Owner(s) Lisa Kettler

Mailing Address (If Different from Project Address) 28423 N. 57th St. Cave Creek, Az. 85331

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Cassandra Murray on behalf of Lisa Kettler

Mailing Address (If Different from Project Address) 116 Meadowbrook Rd SE. Saint Michael, MN 55376

Phone# [REDACTED] Email [REDACTED]

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

☒ Variance

☐ Administrative Appeal

Planning Commission

☐ Conditional Use Permit (CUP)

☐ Interim Use Permit (IUP)

☐ Amendment to CUP or IUP

☐ Preliminary Plat

☐ Rezoning

☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) Seeking Variance to Rebuild

family Cabin to become partial year residence. (see attached)

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

☐ Full Legal Description

☐ Detailed Site Plan

☐ Detailed Written Narrative

☒ Plat Drawings

Cassandra Murray
Applicant Signature

4-9-24
Date of Application

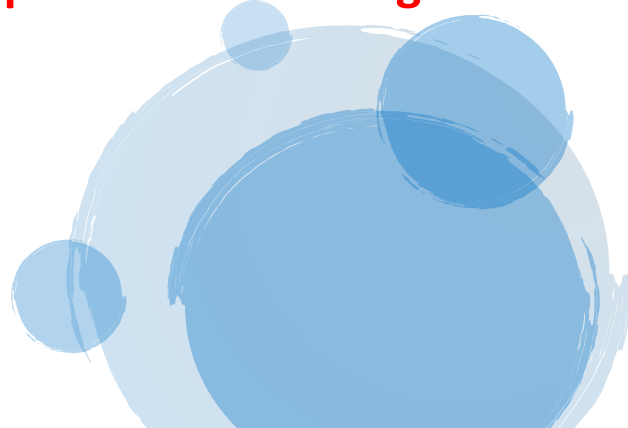
I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

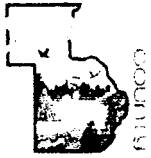
Fees		Dates	
Base Fee	\$ <u>600.00</u>	Application Received	<u>4/9/24</u>
Recording Fee	\$ <u>46.00</u>	Application Complete	<u>4-24-24</u>
Plat Fee – No Road(s) / With Road(s)	\$ _____	☒ 60 / 120 Day Review Period	<u>6-23-24</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>646.00</u>		



Chisago Lakes Township is meeting on Tuesday May 21st @ 7PM.

**Township recommendation will be provided following
meeting.**





Chisago County Department of Environmental Services
Planning & Zoning Application

Authorization to Pursue Application

I, the undersigned, being the property owner of record as noted on the accompanying Planning & Zoning Application Form do hereby authorize CASSANDRA MURRAY the applicant for this planning proposal, to pursue this zoning application on / for my property, as legally described on the attached application.

LISA A KETTLER

Print Property Owner Name(s)

Lisa A Kettler

Signature(s) of Property Owner(s)

2/10/2024

Date

This document is being written to provide information in regards to the Legal Standards to grant variance to rebuild at property 32710 N. Center Court, Center City, MN which will be referred to as "the cabin". To provide some background information, this property was purchased by my father in the early 1990's as a place for our family to stay when we would visit Minnesota to visit our family, and as a fishing cabin for my grandfather. Over the years it has become the cornerstone of some of the best memories of my youth and ultimately led me to relocate here after college. My husband and I were married on this property and that of our neighbors and the intent is that the dwelling on this property be able to provide many more memories in the years to come. In 2021 my Father died. Currently my mother (the owner of the property) resides in Arizona living close to my brother and she would like to spend half of the year at the cabin. Aside from cosmetic updates, much of the cabin is original and not only does it not pass current residential code, but the structure is showing signs of failing. There are 2 primary reasons that the structure must be rebuilt instead of repaired.

- 1) There is no sound foundation. The cabin sits on 3-4 cinder blocks high without foundational footings. This is leading to both the roof and areas of floor where joists and trusses would need to be replaced. (roof sags and there are soft spots in the floor)
- 2) The current (original) septic tank resides 5 feet from the house and is failing.

There are also special circumstances that have led to this particular custom house design.

- 1) This is a substandard size lot
- 2) Given my moms age and physical limitations, much of the space she will need will need to be on the main level with the upper Half story, to be for grandkids/guests so she does not need to use the stairs to be able to live there. This will allow her to be able to continue to live here even if her physical limitations worsen. This has led to a larger footprint for the new build.

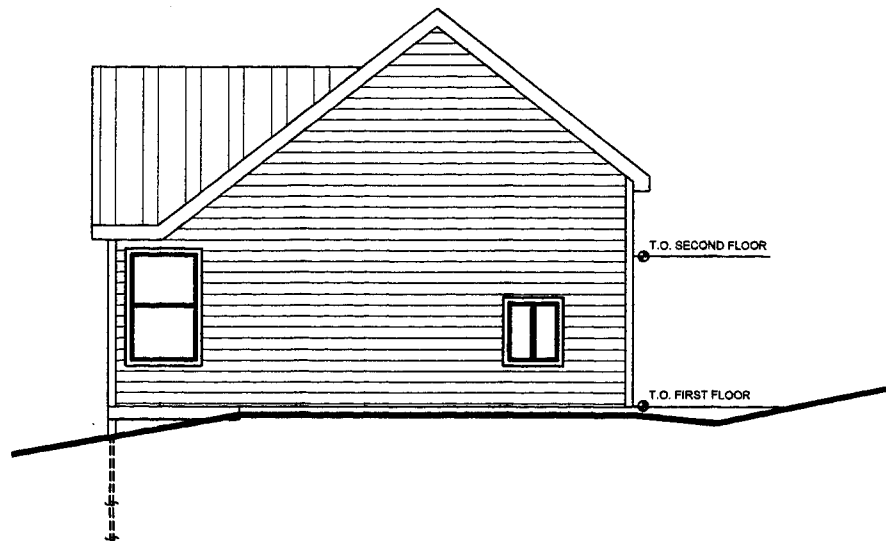
A Septic design specialist has insisted that a septic system would not be able to reside on the property given its size and setbacks needed, a mound would not fit. 2 holding tanks have been suggested however given the proposed placement to abide by township setbacks and setbacks from the house, a variance is required as it is impossible to abide by all set-backs.

The proposed structure will be a 48' x 30' structure that is 1 ½ stores. There will be no basement, only footings and a slab. The second story will be vaulted on a short pony wall so the structure is not as tall as other surrounding property as to not alter the essential character of the locality. (see attached design) The Focus of this build will be to make the property as low maintenance as possible while providing safe, sound, and functional housing for generations to come.

Lakeside view

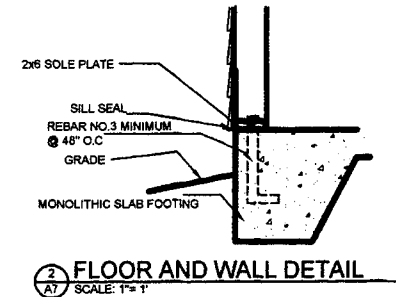
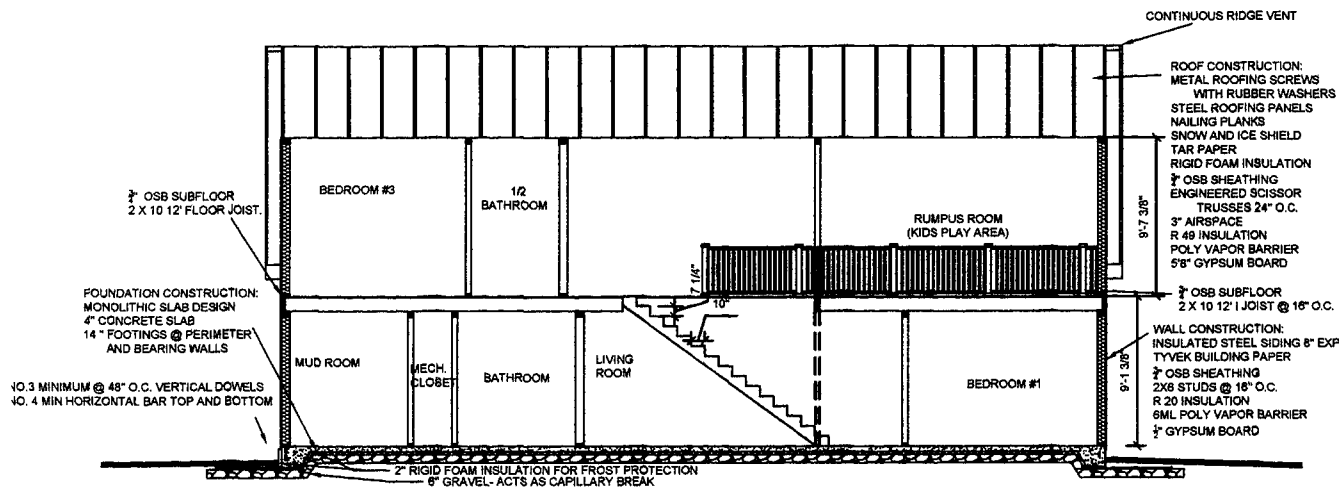


1 NW ELEVATION
AS SCALE: 1/4" = 1'

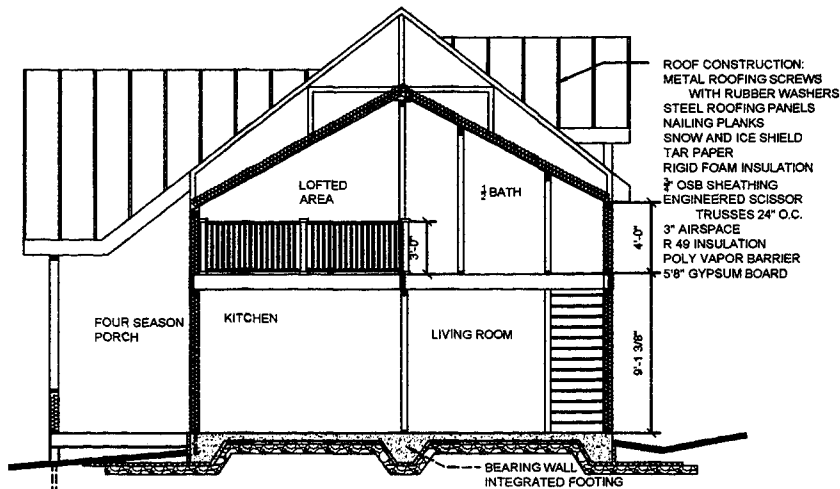


2 SW ELEVATION
AS SCALE: 1/4" = 1'

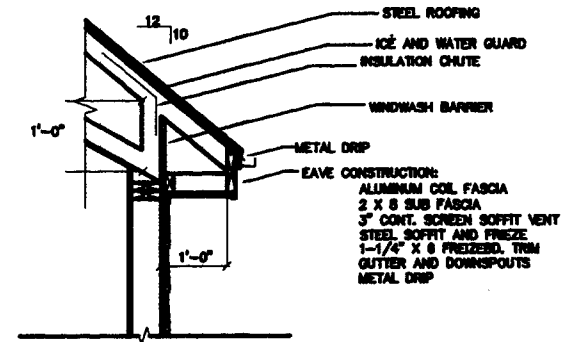
PROJECT NUMBER		
hennepin technical college architectural drafting & design 13100 college view drive eden prairie, mn 55347		
DATE	DESIGNED	DRAWN
DATE		



1 CROSS SECTION
SCALE: 1/4" = 1'



3 CROSS SECTION
SCALE: 1/4" = 1'



4 EAVE DETAIL
SCALE: 1" = 1'

PROJECT NAME		
PROJECT NUMBER		
PROJECT ADDRESS		
PROJECT PHONE		
PROJECT EMAIL		
DATE	DESIGNED	CHECKED
PROJECT PLANNER		
DATE		

hennepin technical college
architectural drafting & design
13100 college view drive
eden prairie, mn 55347

EXISTING

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:	square feet per acre:	Total area of parcel in square feet
.13	x 43,560	= 5662.8

OR	Total area of parcel in square feet

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling		=	777
garage		=	
deck		=	
patio		=	167
sidewalk		=	
driveway		=	
other; list:		=	
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			944

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:		=	
		=	
TOTAL OTHER ITEMS			

Calculate:

Total from "Residential Structures":	944	+
Total from "Agricultural Structures":		+
Total from "Other Items":		+
Total square footage of coverage:	944	=
(divide by total area of parcel, above)	5662.8	/
TOTAL IMPERVIOUS SURFACE	16.7	%

signature

date

corresponding permit number

PROPOSED

IMPERVIOUS SURFACE CALCULATIONS

required for parcels located within shoreland overlay

AREA OF PARCEL

acres:	square feet per acre:	Total area of parcel in square feet
.13	x 43,560	= 5662.8

OR

Total area of parcel
in square feet

Impervious surface coverage of shoreland lots/parcels are limited to 25%. Impervious surface includes, but is not limited to decks, driveways (concrete, asphalt, or gravel), sidewalks (boardwalks, concrete, rock, landscape block, etc.), plastic-lined landscaping and structures. Anything located upon, within or above the ground that would prohibit water from percolating into the soils below and create an increased rate of runoff than the natural landscaping.

IMPERVIOUS SURFACE CALCULATION

Residential structures:	length X width	=	square foot of structure
(example)	(20 x 40)		(800)
dwelling	48 x 30	=	1440
garage		=	
deck		=	
patio		=	
sidewalk		=	
driveway		=	
other; list:		=	
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES			

Agricultural Structures:	length X width	=	square foot of structure
barn		=	
machine shed		=	
bin		=	
other; list:		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AG STRUCTURES			

Other Items:	length X width	=	square foot of structure
roadway (if not publicly dedicated)		=	
landscaping with plastic barrier		=	
other; list:		=	
		=	
TOTAL OTHER ITEMS			

Calculate:

Total from "Residential Structures":	1440	+
Total from "Agricultural Structures":		+
Total from "Other Items":		+
Total square footage of coverage:		=
(divide by total area of parcel, above)	5662.8	/
		=
TOTAL IMPERVIOUS SURFACE	25	%

signature

date

corresponding permit number

Beth M. Gervais

From: [REDACTED]
Sent: Thursday, May 9, 2024 8:58 PM
To: Beth M. Gervais
Subject: Re: Chisago County Variance Application --- RESPONSE REQUIRED
Attachments: new site plan.jpg; new setbacks.jpg; 32710 N Center Ct holding tank version 3.pdf

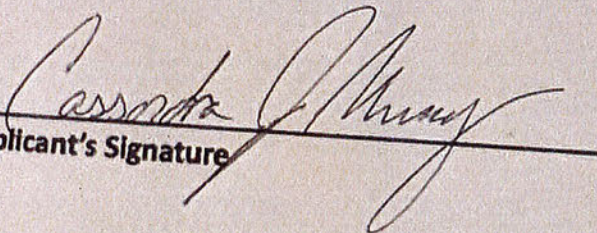
This is an external email message!

This message originated from outside the Chisago County email system. Use caution when clicking hyperlinks, downloading pictures or opening attachments.

Hi Beth, I have decided to stay on this months variance meeting schedule. Here is hopefully all the documentation you need. I have the new septic tank design from Josh Putt and approval from Mike armstrong. The septic design will only require variance approval for the south boundary setback and not both south and east. I am changing the dimensions of the structure to 50x28 sticking to the 31 feet setback from the high water line but asking for variance for 10 foot setback from the east or township right of way boundary. This changes the impervious soil slightly by about 40 square feet (less) but I don't have that document currently so I was unable to complete it. let me know if you need anything else from me. I apologise I had to take photos of the documents as my scanner was not cooperating with me. I will be working most of the day tomorrow so if there is something that is time sensitive, it is best to call me.

Thanks,
Cassie Murray
[REDACTED]

Dwelling	Required Setbacks	Existing Setbacks	Proposed Setbacks
• Roadway	40' from R-O-W	13.9'	10'
• OHWL	75'	31'	31'
• Side Yard	10'	South - 10.6' North - 20'+	South - 13' North - 15'
Septic System	Required Setbacks	Existing Setbacks	Proposed Setbacks
• Property Boundaries	10'		South - 1'6" East / R-O-W - 10' North - >10'
• OHWL	50'		50'
• Structure(s)	10'		10'


Applicant's Signature

5-8-24
Date

RECEIVED

MAY 10 2024

Chicago County
Dept. of Environmental Services

BG

NORTH CENTER LAKE

CHI-GAK-WA

Shoreline of North Center Lake
Elev. = 886.0 NAVD83
October 1, 2003

-N25°30'02"E
248.14 (248 PLAT)
Survey Line

Ordinary High Water Line
Elev. = 800.3 NAVD83

Point 177
Intersection of Prop. Hwy. 1716

S84°46'09"E
121.94 (122 PLAT)

SHORES

NORTH CENTER COURT

2500 Gals
13'x7'
1'6"

RECEIVED

MAY 1 0 2024

Chisago County
Dept. of Environmental Services

BG

Lisa Kettler and Cassandra Murray – Property owner Lisa Kettler and applicant Cassandra Murray are requesting a Variance allowing reduced township Right-of-Way and Ordinary High Water Level setbacks for a new dwelling and reduced property boundary setbacks for the installation of a new septic system in the Rural Residential II (RRII) District / Shoreland Management District. The property is located at 32710 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01077.00).

Kettler Murray Property - 



Lisa Kettler and Cassandra Murray – Property owner Lisa Kettler and applicant Cassandra Murray are requesting a Variance allowing reduced township Right-of-Way and Ordinary High Water Level setbacks for a new dwelling and reduced property boundary setbacks for the installation of a new septic system in the Rural Residential II (RRII) District / Shoreland Management District. The property is located at 32710 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01077.00).

Kettler Murray Property - 



RESOLUTION NO. BOAA2024-0501

**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 TOWNSHIP RIGHT-OF-WAY, ORDINARY HIGH WATER LEVEL AND NEW
SEPTIC SYSTEM SETBACK THAN REQUIRED
ON PROPERTY LOCATED AT 32710 N. CENTER COURT CHISAGO LAKE TOWNSHIP**

WHEREAS, property owner Lisa Kettler submitted an application dated received April 9, 2024 and considered complete on April 24, 2024 for a Variance to Zoning Ordinance Sections 4.03 and 6.06; and

WHEREAS, the subject site is located within the Rural Residential II/Shoreland Management District; and

WHEREAS, the property owner desires to expand a legal non-conforming new dwelling to be closer to the township Right-of-Way and Ordinary High Water Level (OHWL) than required and for a new septic system to be closer to a property boundary than required in the Rural Residential II (RRII) District / Shoreland Management District.

WHEREAS, the subject site is legally described as:

PID 02.01077.00
Lot Seven (7), Chi Gak Wa Shores, Chisago County, Minnesota.

WHEREAS, notice was provided and on May 17, 2024 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator, the property owner, and invited members of the public to comment; and

WHEREAS, the Board of Adjustment and Appeals considered several criteria for granting Variances and made the following findings per Zoning Ordinance Section 8.06 Variances:

- | | |
|-------------|---|
| Criteria #1 | The proposed action will not impair an adequate supply of light and air to adjacent property; |
| Finding #1 | <i>The proposed dwelling will be situated 15' from the northerly property boundary and 13' from the southerly property boundary (side yards where the required setback is 10'), bordered by a public roadway along the western property boundary and bordered by a public body of water along the eastern property boundary. The County finds that the proposed dwelling will be sufficiently distanced from neighboring properties so as not to impair an adequate supply of light and air to adjacent properties.</i> |
| Criteria #2 | The proposed action will not unreasonably increase the congestion in the public right-of-way; |
| Finding #2 | <i>The proposed use of the property will not change from the existing use and the proposed action will result in the dwelling being closer to the Right-of-Way than the existing dwelling. The County finds that the proposed use will not increase the amount of traffic generated at the subject site or increase the amount of congestion on Center Court.</i> |
| Criteria #3 | The proposed action will not increase the danger of fire or endanger the public safety; |
| Finding #3 | <i>The property owner will be required to obtain a building permit prior to construction of the proposed dwelling, and it will therefore be constructed in compliance with all applicable codes. Being compliant with all applicable codes will help ensure that there</i> |

will be no increase to the danger of fire or endangerment of the public's safety. The County finds that the proposed action will have no impact on the danger of fire or public endangerment.

Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;

Finding #4 Being that the subject site is currently developed with a single family dwelling and the proposed dwelling will not change how the property is being used. The County finds no evidence to suggest that there will be any negative impact to surrounding properties.

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;

Finding #5 The proposed action will not change the use of the subject site; therefore, the County finds that the proposed action will not have any strain or increased impact upon existing facilities and services.

Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and

Finding #6 The proposed action will not change the use of the subject site; therefore, the County finds that there will be no negative fiscal impact upon the County or school district.

Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.

Finding #7 The subject site is zoned Rural Residential II (RRII) District / Shoreland Management District and Zoning Ordinance Section 5.08 allows dwellings as a permitted use in the RRII District. The Zoning Ordinance also allows for Variances from setback requirements when the requested action proves to be reasonable, when there is a unique circumstance to the property, and when it will not alter the essential character of the surrounding area. The County finds that the proposed action is in keeping with the spirit and intent of the Chisago County Zoning Ordinance and satisfies the three-factor test of uniqueness, reasonableness and essential character.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variances is hereby approved, subject to the following conditions:

1. This approval grants the following Variances:
 - A. A 3'9" Variance to the township Right-of-Way setback requirement allowing the proposed dwelling' from the Center Court Right-of-Way. This Variance will allow the proposed dwelling to be located closer to the township Right-of-Way than the existing dwelling.
 - B. A Variance to the Ordinary High-Water Level (OHWL) setback requirement allowing the proposed dwelling to be not to change from the non-conforming existing (31') OHWL of North Center Lake.
 - C. A 1'6" Variance to the township Right-of-Way setback requirement for the south side of the septic system. It would also, correct the failing septic system and replace it with a new installing a new septic system (holding tank).
2. Except as specifically required herein, the dwelling shall be constructed in general conformance with the application materials, including "proposed" site plan, dated received May 10, 2024. 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.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 30th day of May 2024.

Gregg Carlson _____
Douglas Greene _____
Becky Strand _____

John Sutcliffe _____
Charles Yeager _____

Chair

ATTEST:

Beth Gervais
Land Services Coordinator