

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
May 30, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, May 30, 2024 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Sarah Scheunemann, Office Support Specialist – Land Services

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 Sutcliffe to approve the agenda as presented; second by Greene. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – Motion by Carlson to approve the March 28, 2024 meeting minutes as presented; second by Sutcliffe. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Yeager to receive all applications, submittals, reports, and other materials into the record, including an amended resolution for agenda item no. 6a, an updated footing and foundation plan for agenda item 6a, and the completed Chisago Lake Township Presentation Form for agenda item no. 6a; second by Sutcliffe. 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 meeting materials were made available at the entrance to the County Board Room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Lisa Kettler & Cassandra Murray – Coordinator Gervais provided background information on Lisa Kettler's & Cassandra Murray's Variance request for property located at 32710 N. Center Court in Chisago Lake Township (PID 02.01077.00), explaining that Kettler and Murray were requesting Variances to the Zoning, Shoreland Management and Subsurface Sewage Treatment Systems Ordinances in order for a new dwelling to be located 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. Gervais reviewed details of the subject site and surrounding area, sharing that the .20± acre property, which was platted in 1955, was located in the Rural Residential II (RRII) District / Shoreland Management District. Being that the property was platted in 1955 and the dwelling was constructed in 1956 and neither met the current minimum standards, both were considered legal non-conforming.

Gervais continued to describe that the existing dwelling was 20' x 38' (760 sf) in size with decks on the westerly and southerly sides. The written narrative explained that there was no sound foundation underneath the dwelling and this had led to a sagging roof and soft spots in the floor. In addition, the

original septic system was failing and needed to be replaced. Gervais provided a summary of the existing non-conforming setbacks and other unique features of the subject site. Gervais also indicated that the applicant had submitted amended application materials on May 10, 2024 and staff's proposal analysis focused on the amended materials.

Gervais reiterated that the applicant was seeking a Variance to redevelop the lakeshore property by demolishing the existing single-story dwelling and decks and constructing a new 28' x 50' (1,400 sf) story-and-a-half dwelling. The new dwelling would be located closer to the township Right-of-Way and OHWL than required. The dwelling would be constructed in generally the same location as the existing dwelling and would maintain the existing non-conforming OHWL setback of 31' but would further reduce the already non-conforming roadway setback of 13.9' down to 10'. The proposed septic system would be a single 2,500 gallon holding tank located 1'6" from the southerly property boundary where the required setback was 10', but it would meet all other required setbacks. Gervais noted that the Variance requested for the septic system would normally be processed as an administrative Variance; however, given that the property owner and applicant were requesting other non-administrative Variances, it seemed more efficient and less costly for the property owner and applicant to process all Variances together.

Gervais stated that the application materials included a written narrative addressing the State mandated practical difficulty standard, explaining that the lot size was substandard, it would not be possible to meet all required setbacks; and, the proposed dwelling would not alter the essential character of the surrounding area. Gervais agreed that the subject site was substandard and meeting all required setbacks would be impossible, but she also expressed concern with the proposed exacerbation of the non-conforming roadway setback. Gervais explained that it would be possible to construct a new dwelling which met the County's minimum required dwelling size while maintaining the existing setbacks.

The Technical Review Committee met with applicant Cassandra Murray on May 8, 2024 and reviewed the original application materials. Gervais shared that the Committee expressed concern with the size of the proposed septic system and the proposed exacerbation of the non-conforming dwelling setbacks. The County Sanitarian had noted that the property only required one holding tank rather than two as proposed. Gervais noted that the significance of this comment was that one holding tank would reduce the amount of Variance needed. Gervais continued by sharing that there was concern with the proposed increase of the dwelling footprint and subsequent exacerbation of non-conforming OHWL and township Right-of-Way setbacks. Gervais noted that, in response to the Committee meeting, the applicant provided amended application materials on May 10, 2024 showing only one holding tank and an altered dwelling footprint which maintained the existing non-conforming OHWL setback. The Chisago Lake Town Board met on May 21, 2024 and recommended approval with the condition that the property owner and applicant "move new house and septic tanks two feet to NE so they are more centered on applicant property". The State mandated 60-day review period was scheduled to expire on June 23, 2024.

Gervais explained, based on the Chisago Lake Town Board comments, that the applicant had submitted amended application materials, including an amended site plan, again on May 21, 2024. Gervais reviewed details of the amended site plan highlighting that the proposed septic system was now shown to be located 4' from the southerly property boundary and the proposed dwelling was shifted slightly north while still maintaining the required side yard setbacks. Gervais commented that

staff had prepared an amended draft resolution of approval, based on the May 21st amended request, for the Board's consideration.

Gervais concluded by offering a recommendation of approval for the amended Variance request and reviewed options available to the Board.

Chair Strand invited the applicant to address the Board. Applicant Cassandra Murray provided clarification on details of the existing dwelling and deck structures, as well as dimensional details of the proposed covered deck / porch. Murray explained that the proposed dwelling would meet all building code requirements.

Greene, in response to the fact that the applicant had amended the application materials twice following submission of the original application, clarified that, if the Board were to approve the Variance and the applicant later decided to change the building plans again, the project would need to comply with the approved setbacks.

Carlson sought clarification from staff regarding the septic system, questioning if an alternate septic site was required for holding tank systems. Gervais responded that properties with holding tanks did not require an alternate site. Murray explained that they would ideally like two tanks so they wouldn't have to pump as often but understood staff's concern. Carlson then asked if a property could have a single holding tank or if two were required. Gervais responded that one tank was sufficient. Carlson noted that, while on site for the May 29, 2024 site visit, the existing septic was located between the dwelling and the road. Murray added that the existing system was about 3' from the dwelling. Carlson asked staff what would be required to terminate use of the existing system and if that action needed to be included as a condition of approval. Greene responded that the building permit and/or septic permit would address the existing system and that it didn't need to be included in the conditions of approval. Murray explained that the septic installer indicated that the existing system could be removed or crushed and filled in. Carlson again asked if abandonment of the existing septic system would need to be included in the Variance. Gervais responded that it did not need to be included in the Variance as it would be included in the required septic permit.

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

Chair Strand opened up for further discussion. Carlson stated that the applicant had initially proposed a 1' 6" setback for the holding tank and the Town Board wanted it to be an additional 2' farther from the property boundary. Murray clarified that the Town Board wanted the holding tank to be 4' from the property boundary. Carlson asked if the deck was going to be squared off, commenting that the plans were showing a notch. Murray clarified details of the building plans and said the deck would be squared off.

Motion by Carlson to adopt Resolution No. BOAA2024-0501, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing reduced Right-of-Way and Ordinary High Water Level setbacks for a dwelling and a reduced property boundary setback for a septic system on property located at 32710 N. Center Court in Chisago Lake Township, with Findings

of Fact and conditions as presented; second by Greene. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants the following Variances:
 - a. A 30' Variance to the township Right-of-Way setback requirement allowing the proposed dwelling to be 10' from the N. Center Court Right-of-Way. This Variance will allow the proposed dwelling to be located 3'9" closer to the township Right-of-Way than the existing dwelling.
 - b. A 44' Variance to the Ordinary High Water Level (OHWL) setback requirement allowing the proposed dwelling to maintain the existing non-conforming OHWL setback of 31'.
 - c. A 6' Variance to the southerly side yard setback requirement allowing the proposed septic system (holding tank) to be 4' from the southerly property boundary.
2. Except as specifically required herein, the dwelling shall be constructed in general conformance with the application materials, including amended site plan, dated received May 21, 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.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUISNESS

None

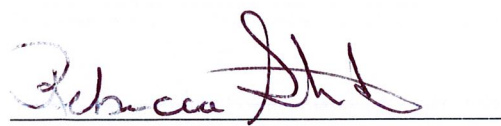
NEW BUISNESS

None

MISCELLANEOUS

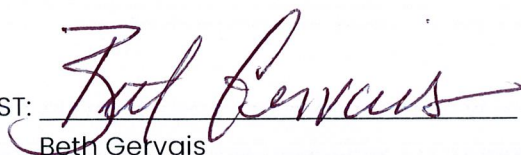
None

ADJOURN MEETING – Motion by Yeager to adjourn; second by Sutcliffe. The **motion passed** and carried unanimously. The meeting was adjourned at 7:20 p.m.



Rebecca Strand
Chair

ATTEST:



Beth Gervais
Land Services Coordinator