

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

The Chisago County Board of Adjustment & Appeals met in regular session at 7:01 p.m. on Thursday, July 25, 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 Yeager to approve the June 27, 2024 meeting minutes as presented; second by Carlson. The **motion passed** and carried unanimously.

Chair Strand noted that she used to be coworkers with property owner Beth Tatur (agenda item no. 6a), adding that they did not work in the same department. Chair Strand asked the Board if they would like her to recuse herself from agenda item no. 6a, abstain from the vote, or participate as normal. Chair Strand then turned the meeting over to Vice Chair Greene to conduct the vote. Through discussion, the Board generally agreed that there was no conflict of interest. **Motion** by Carlson to allow Chair Strand to fully participate in agenda item no. 6a; second by Greene. The **motion passed** 4-0 (Chair Strand abstained).

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Carlson to receive all applications, submittals, reports, and other materials into the record; 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 report 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

Beth Tatur and Level Contracting, LLC – Property owner Beth Tatur and applicant Level Contracting, LLC requested a Variance to reduce the township Right-of-Way setback in the Rural Residential I (RRI) District / Shoreland Management District for property located at 46350 Beach Road (PID 03.01181.00) in order to demolish the existing 840 sf dwelling and to construct a new 1,478 sf year-round dwelling with a 760 sf attached garage.

Coordinator Gervais presented background information on the Tatur/Level Contracting, LLC application stating that the subject site was .39± acres in size and was currently developed with an 840 sf dwelling partially located within the required township Right-of-Way setback, a 124 sf shed located within the required Ordinary High Water Level setback, and an 87 sf shed located within the required township Right-of-Way setback. All of the existing structures were considered non-conforming due to setback encroachments. Additionally, the existing dwelling was considered non-conforming as it was less than the current required dwelling size of 960 sf. Gervais also noted that the existing amount of impervious surface coverage was reported to be 7.6%.

Gervais reviewed the application materials stating that the property owner and applicant wanted to remove the existing dwelling and redevelop the property with a new dwelling and attached garage. The proposed dwelling was shown to meet all required setbacks except for the required 40' township Right-of-Way setback. The existing dwelling was located 17.3' from township Right-of-Way and the proposed dwelling would further encroach with a proposed 15' setback, equating to a proposed 25' setback Variance. Gervais highlighted that the proposed amount of impervious surface coverage was shown to be 20.5% which was below the maximum allowable amount of 25%. However, Gervais further noted that the survey included notations that the proposed retaining wall was not included in the calculation and the driveways were shown for graphic purposes only. Because the property owner and applicant had not included a request to exceed the maximum allowable amount of impervious surface coverage in their Variance request, Gervais noted that they would be required to keep the amount at or below 25%.

Gervais stated that the written narrative explained that the Variance was necessary to ensure proper grading/drainage, a new well location, and utilize the existing compliant septic system. Gervais noted that, aside from this statement, the applicant had not provided any detail to explain grading / drainage concerns or the proposed location of the new well or detail on how the Variance request satisfied the State mandated practical difficulty standard.

The Technical Review Committee met on July 10, 2024 and did not identify any immediate concerns. The Fish Lake Town Board considered the request on July 8, 2024 and recommended approval with no comments or conditions. The State mandated 60-day review period was scheduled to expire on September 1, 2024.

Gervais shared staff concerns related to the State mandated practical difficulty standard, explaining that staff believed the subject site was unique in that it constituted pre-existing development and that the proposed dwelling would not alter the essential character of the neighborhood; however, staff questioned the reasonableness of the request and was concerned with the proposed exacerbation of the township Right-of-Way setback encroachment. Gervais added that staff believed it would be reasonable and possible to slightly reduce the size of the dwelling or redesign the layout of the dwelling in an effort to maintain or even improve the existing township Right-of-Way setback encroachment. Despite these concerns, Gervais concluded by offering a recommendation of approval, based on consistency with past Variance approvals, with conditions and reviewed options available to the board.

Chair Strand invited the property owner and/or applicant to address the Board. Property owner Beth

Tatur and applicant Monty Jensen with Level Contracting, LLC were present and approached the Board. There was discussion between the Board and applicant Jensen in regard to the setbacks of the existing structure, the proposed location of the new well, and the proposed 15' township Right-of-Way setback and whether there was ability to adjust the location of the dwelling to increase the setback. There was also discussion about the cited drainage concerns with the existing structure. Jensen stated that the north side of the property was at a higher elevation and then sloped down toward the south side of the property, and that the proposed dwelling would need to be raised up in order to bring it to proper drainage specification. Lastly, there was discussion about the amount of impervious surface coverage. Jensen noted that the east shed, located adjacent to the township Right-of-Way, would be removed and the sand point well located within the shed would be capped. Jensen added that, if they needed to, they would utilize materials that would be pervious to stay at or below 25% impervious surface coverage.

Chair Strand asked Tatur and Jensen if they would like to add anything else. Jensen addressed the practical difficulty standard and possible reduction of the dwelling by noting that the dwelling was intended to be a long-term retirement property and the size of the dwelling was comparable to other homes in the general area. Jensen concluded by stating that the location of the proposed dwelling, in relation to the township Right-of-Way, was in line with other nearby properties.

Chair Strand opened the public hearing and sought public comment.

Joe Tatur of 50095 Arbor Avenue W., Nessel Township stated that he had attended the Fish Lake Town Board meeting and the Town Board noted that the proposed setback encroachment would not impede snow removal.

With no additional members of the audience wishing to speak, ***motion*** by Yeager to close the public hearing; second by Sutcliffe. The **motion passed** and carried unanimously.

Motion by Sutcliffe to adopt Resolution No. BOAA2024-0701, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing a reduced township Right-of-Way setback on property located at 46350 Beach Road in Fish Lake Township, as presented; second by Carlson. The **motion passed** and carried unanimously.

Approved Conditions:

1. This approval grants a 25' Variance to the township Right-of-Way setback requirement allowing the proposed dwelling with attached garage to be located no closer than 15' from the Right-of-Way boundary. The dwelling with attached garage shall comply with all other required setbacks.
2. The overall amount of impervious surface coverage shall not exceed 25%.
3. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage 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 BUSINESS

None

NEW BUSINESS

None

MISCELLANEOUS

None

ADJOURN MEETING – Motion by Carlson to adjourn; second by Yeager. The **motion passed** and carried unanimously. The meeting was adjourned at 7:27 p.m.



Rebecca Strand
Chair

ATTEST:



Beth Gervais
Land Services Coordinator