

**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
December 23, 2024**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, December 23, 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

Acting Chair Greene 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, Chip Yeager, John Sutcliffe, and Acting Chair Doug Greene. Absent: none. A quorum was established.

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

APPROVAL OF MINUTES – Motion by Sutcliffe to approve the November 26, 2024 meeting minutes as presented; second by Carlson. The **motion passed** and carried unanimously.

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 Yeager. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included the complete meeting packet with staff 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

Carrie Penshorn – Coordinator Gervais stated that property owner Carrie Penshorn was requesting a Variance allowing for reduced Township Right-of-Way and westerly side yard setbacks for the purpose of redeveloping the property with a new dwelling and attached garage. The .19± acre subject site was zoned Rural Residential I (RRI) District / Shoreland Management District and located at 14150 Old Holt Court in Chisago Lake Township, S3, T33, R20 (PID 02.00013.00).

Gervais provided background information, sharing that property owner Carrie Penshorn sought Variance approval to redevelop her lakeshore property by demolishing the existing cabin and constructing a new dwelling with an attached garage. The subject site was approximately .19± acres in size and was at the time developed with a 728-sf cabin and a 288-sf boathouse. Gervais noted that, with the exception of the southeasterly corner of the cabin, the existing cabin appeared to meet all other required setbacks. However, the boathouse appeared to be located within the required OHWL setback and within the FEMA flood zone where the County prohibited any development. Records from the Chisago County Assessor's Office indicated that the cabin had existed since 1954, which indicated that it predated the County's adoption of official land use controls and was therefore considered legal non-conforming. The subject site was approximately 57' wide and approximately 155' deep (average) and the property was considered legal non-conforming in that it did not meet current lot area and lot width requirements of the Shoreland Management District. The subject site was served by municipal sewer thus eliminating the need for a septic compliance inspection as part of the Variance request. In addition, the required OHWL setback was 50' compared to the more common 75' for unsewered properties on General Development lakes. Gervais highlighted that the existing impervious surface coverage was 14.2%, which included a small amount (13sf) of a neighboring shed, also owned by Carrie Penshorn, which encroached on the subject site.

Gervais provided details of the proposed Variance request, sharing that the stated purpose for redevelopment was the need for an accessible home. And, in order to develop the site as desired, the property owner was seeking Variance approval for a 27.97' Township Right-of-Way setback where the required setback was 40', and an 8.7' westerly side yard setback where the required setback was 10'. The written narrative explained that the requested setbacks were necessary due to the limited amount of buildable land given that the property boundaries had formed a parallelogram. Based on the application materials, the proposed amount of impervious surface coverage was reported to be increasing from 14.2% to 24.6%, which was still within the allowable amount of lot coverage. Staff had noted that the proposed amount only included the proposed dwelling with attached garage and the existing boathouse. Gervais shared that the written narrative explained that, in order to achieve 24.6%, the proposed driveway and patio would be constructed with pervious pavers and the property owner would remove existing concrete walkways, retaining walls, and the deck.

The written narrative partially addressed the State mandated practical difficulty standard by explaining that The Township Right-of-Way and OHWL setbacks (south and north property boundaries) were at an angle to the sidelines (west and east property boundaries) thereby reducing the buildable footprint substantially which made this a unique building site. The [setback] Variance was necessary for the construction of [the proposed dwelling] which was an accessible design on the limited space available. The impervious surface coverage on this property would be 24.6% and would maintain the character of the area. Staff also offered that the subject site predated the County's adoption of official land use controls and was considered legal non-conforming in terms of lot area and lot width, which the County referred to as pre-existing development. Gervais noted that pre-existing development was often cited by the Board as a basis to establish uniqueness of a subject property.

Gervais briefly reviewed staff concerns in regard to the accuracy of the impervious surface coverage percentage. Gervais explained that, during the December 11, 2024 Technical Review Committee meeting, staff sought clarification on discrepancies between the existing and proposed amounts of impervious surface coverage. Staff had also sought clarification on the use of pervious pavers for the driveway and patio and the intimation that these pavers would be 100% pervious. Staff questioned whether the pavers were truly 100% pervious and had advised the property owner to provide product specifications for verification purposes. Gervais noted that, because the property owner did not include allowance to exceed the maximum allowable amount of impervious surface coverage in the Variance request, the subject site would be limited to a maximum amount of 25% until and unless a separate Variance request was submitted and granted.

The Technical Review Committee met with property owner Carrie Penshorn and Dan Sonnen on December 11, 2024. The group reviewed details of the request and, as previously mentioned, discussed impervious surface coverage concerns. The Committee did not identify any other immediate concerns. The Chisago Lake Town Board considered the request on December 17, 2024 and recommended approval with no conditions and a comment of "not out of alignment with adjacent". The State mandated 60-day review period was scheduled to expire on January 31, 2025.

Gervais concluded by noting that, while staff had a concern with the proposed amount of impervious surface coverage and, more specifically, the intimation that the proposed pervious pavers were truly 100% pervious, staff provided a recommendation of approval with draft Findings of Fact and recommended conditions, and reviewed options available to the Board.

The applicant was not present, so acting Chair Greene 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 Yeager. The **motion passed** and carried unanimously.

Yeager began the discussion by asking which Board members had attended the December 20, 2024 site visit, as he had a question about what was behind the current cabin. Board members Greene and Carlson responded that they both had attended the site visit and explained that there was a retaining wall with steps behind the existing cabin. Greene also mentioned that he was informed during the site visit that the retaining wall would be removed with the construction of the new house, which would feature a walk-out basement. Carlson shared with Yeager and Sutcliffe that the neighboring shed which encroached on the westerly property boundary was 8' x 10' in size, and one foot of the shed came over the shared property boundary. However, one of the staff-recommended conditions of approval was to relocate or remove the shed.

Applicant Carrie Penshorn, along with Dan Sonnen, arrived and approached the Board. Acting Chair Greene recapped what had been presented to the Board and what the Board had discussed thus far. Sonnen shared that he and Penshorn wanted to remove the existing cabin and build a new handicap accessible house. Penshorn offered that she owned the westerly neighboring lot and her sister owned the easterly neighboring lot.

Carlson asked Sonnen if the shed and boathouse were included in the impervious surface coverage calculations. Penshorn confirmed that they were. Carlson also inquired about the proposed use of permeable pavers. Sonnen explained that he had spoken with the company that they were likely to use, and the company representative assured him that the pavers would be fully engineered and permeable. Sonnen added that the product specifications would be submitted when they applied for the building permit. The Board and applicant then discussed how to ensure that the 25% impervious surface coverage limit would not be exceeded.

Sonnen clarified some confusion regarding the surveys showing existing conditions and proposed conditions, being that they reported slightly different sizes for the boathouse. Sonnen explained that the person who measured the structure had mistakenly included the siding in the initial measurement, and later correctly measured it at the foundation.

Yeager asked whether the retaining wall would remain, and Sonnen confirmed that it would be removed.

Motion by Carlson to adopt Resolution No. BOAA2024-1201, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing reduced Township Right-of-Way and westerly side yard setbacks on property located at 14150 Old Holt Court in Chisago Lake Township, as presented; second by Yeager. The **motion passed** and carried unanimously.

Conditions:

1. This approval grants the following Variances:
 - a. a 12.03' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 27.97' from the Right-of-Way boundary.
 - b. a 1.3' Variance to the westerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8.7' from the west property boundary.
2. In accordance with the Chisago County Shoreland Management Ordinance and the application for Variance, the maximum allowable amount of impervious surface coverage shall be 25%. In order to ensure compliance, the permit holder shall submit product specifications for the proposed pervious pavers to the Department of Environmental Services for verification prior to installation of said pavers.
3. Being that the permit holder also owns the westerly adjacent property identified as PID 02.00014.00, the permit holder shall relocate or remove the shed situated on PID 02.00014.00 such that it will no longer be situated on the shared property boundary / encroach on the subject site.

4. 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 except as conditioned herein.
5. 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

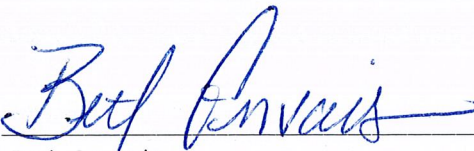
MISCELLANEOUS

None

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



Douglas Greene
Acting Chair

ATTEST: 

Beth Gervais
Land Services Coordinator