

Tour Date and Time: Wednesday, February 26, 2025 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. Appointment of Officers

The Board will elect a Chair and Vice Chair for 2025.

4. Approval of Agenda

5. Approval of Minutes

- a. December 23, 2024

6. Receive all Materials and Submittals into Record

Previously Distributed Materials:

- a. Complete meeting packet including staff report(s) with attachments for agenda item(s) 7a and 10a.

7. Public Hearings – New Applications

- a. **Byron & Judy Dahlheimer** – Property owners Byron & Judy Dahlheimer are requesting a Variance allowing for reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly side yard, and the Township Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling. The .21± acre subject site is zoned Rural Residential (RR) District / Shoreland Management District and located at 32730 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01079.00).
- b. **Adam Arneson** – Property owner Adam Arneson is requesting a Variance allowing for reduced setbacks from the Ordinary High Water Level of North Lindstrom Lake and the southerly side yard for the purpose of redeveloping the site with a new dwelling, and reduced property boundary setbacks for the installation of a new sewer system. The .31± acre subject site is zoned Rural Residential (RR) District / Shoreland Management District and located at 11820 Mentzer Trail in Chisago Lake Township, S5, T33, R20 (PID 02.01612.00).

8. Public Hearings – Continued Hearings

None

9. Old Business

10. New Business

- a. Annual Review of *Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure*

11. Miscellaneous

12. Adjourn Meeting

The next meeting is scheduled for Thursday, March 27, 2025 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time:

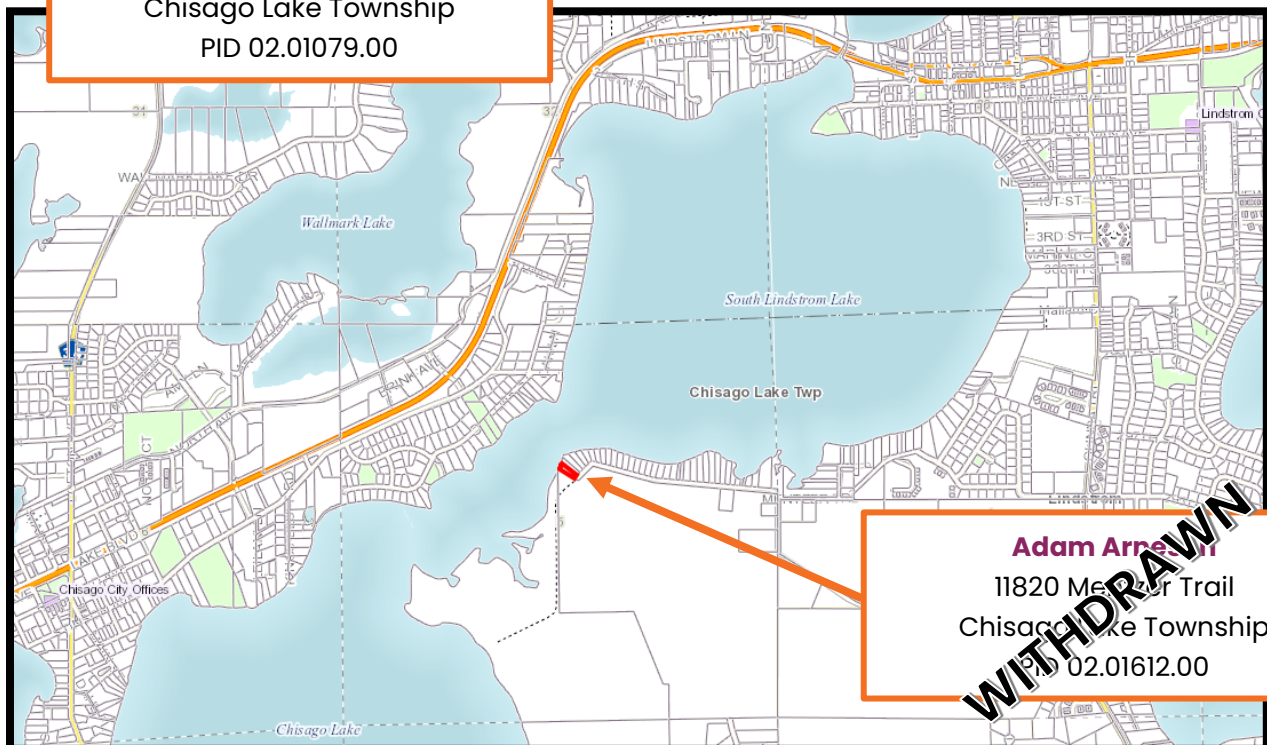
Wednesday, February 26, 2025 at 8:15 am

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



Byron & Judy Dahlheimer

32730 N. Center Court
Chisago Lake Township
PID 02.01079.00



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 29.97' 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



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance Allowing Reduced Ordinary High Water Level, Northerly Side Yard, and Township Right-of-Way Setbacks
 32730 N. Center Court, Chisago Lake Township
 DATE: February 27, 2025

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly property boundary (side yard), and the Township Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling with attached garage.

SITE & APPLICATION INFORMATION

Property Owner(s): Byron & Judy Dahlheimer
 Applicant(s): Byron & Judy Dahlheimer
 Property Address: 32730 N. Center Court
 Chisago Lake Township
 General Location: Section 22, Township 34, Range 20
 PID: 02.01079.00
 Property Area: .21± Acres
 Current Zoning: Rural Residential (RR) District / Shoreland Management District
 Adjacent Zoning:
 North: Rural Residential (RR) District / Shoreland Management District
 South: Rural Residential (RR) District / Shoreland Management District
 East: Rural Residential (RR) District / Shoreland Management District
 West: North Center Lake
 Date Application Received: January 28, 2025
 Date Application Complete: February 4, 2025
 60-Day Review Period: April 5, 2025

BACKGROUND

Property owners Byron & Judy Dahlheimer wish to redevelop their lakeshore property by demolishing or otherwise removing the existing dwelling with attached garage and constructing a new dwelling with attached garage. The property owners are seeking Variance approval in order to have reduced structural setbacks

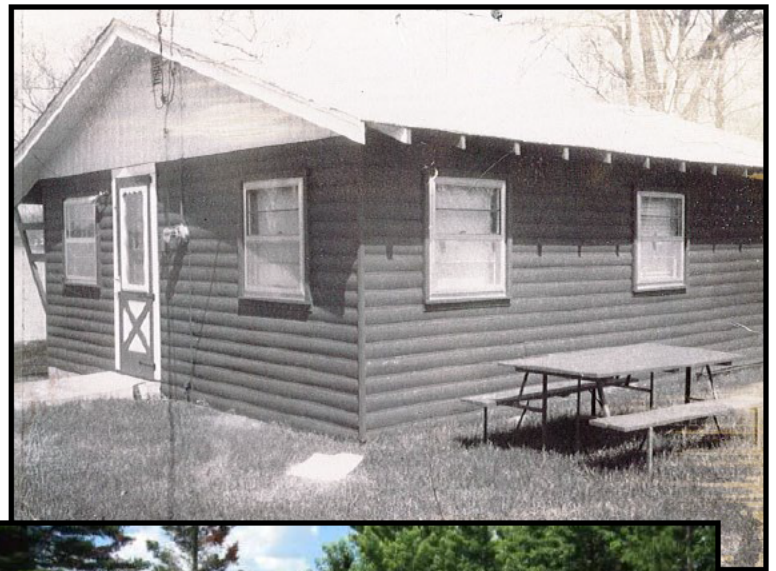


from the Ordinary High Water Level of North Center Lake, the northerly property boundary (side yard), and the N. Center Court Right-of-Way boundary.

Staff notes that the request is being processed pursuant to the Chisago County Shoreland Management Ordinance and Chisago County Zoning Ordinance, both adopted by the Board of Commissioners on December 18, 2025 and effective January 1, 2025. The most significant difference between the previous ordinances and the recently adopted ordinances, as related to this specific request, is that the roadway setback has been reduced from 40' down to 20'.

SITE ANALYSIS

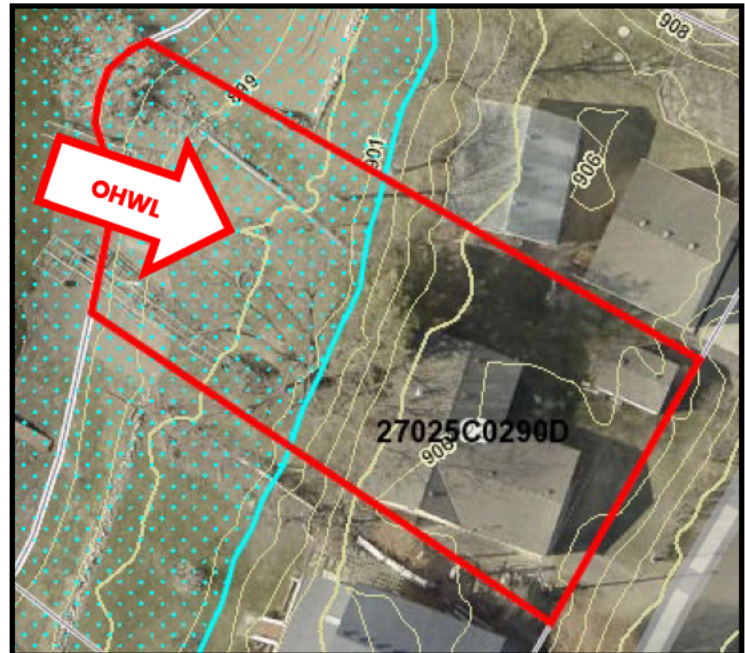
The .21± acre subject site was platted as Lot 9, Chi-Gak-Wa Shores in 1955 and is generally located on the northeastern shore of North Center Lake in Chisago Lake Township. The subject site is currently developed with an approximate 780-sf dwelling and an approximate 440-sf attached garage. Records from the Chisago County Assessor's Office indicate that the original dwelling was constructed as a cabin in 1956, and an addition was constructed in 1984. The existing structure appears to meet the current side yard setback requirement but is encroaching on the Ordinary High Water Level (OHWL) and Township Right-of-Way setbacks. Department of Environmental Services records show that a Variance was granted by the Board on August 30, 1984, allowing the addition of an attached garage closer to the Township Right-of-Way than required by ordinance (no specific dimension provided). Being that the original structure was constructed in 1956 and the garage addition was allowed by Variance in 1984, the OHWL and Township Right-of-Way setback encroachments both appear to have a legal non-conforming status. The top adjacent shows how the subject site was developed in May 1972 and the bottom adjacent image shows the site in July 2011.



According to the recorded plat of Chi-Gak-Wa Shores and the attached survey, the .21± acre subject site was platted with a width of 70' at the easterly property boundary / Township Right-of-Way boundary and an approximate depth of 142' (average). Based on lot area and lot width,

the property itself is considered non-conforming in that it doesn't meet current minimum requirements of the Shoreland Management Ordinance. Being that the property was platted in 1955 prior to the County adopting official land use controls, the property, like the existing structure, is considered to be legal non-conforming.

Topography of the subject site includes fairly level elevations ranging from 907' at the easterly property boundary / Township Right-of-Way boundary to 898' near the shoreline of North Center Lake. Being that the OHWL of North Center Lake is 900.2', staff estimates that the westerly 31' – 55' are situated below the OHWL / considered to be lakebed. Additionally, the westerly 56' – 70' (roughly the west half of the site) are located within a FEMA flood zone where no development is allowed per the Chisago County Floodplain Management Ordinance. The existing dwelling appears to be located entirely outside of the flood zone. The adjacent image illustrates the OHWL as a slightly thicker yellow line and the FEMA flood zone as an aqua-colored line and dots.



The subject site is located within the County's Rural Residential (RR) District and Shoreland Management District, as are all surrounding properties 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 properties 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. Surrounding properties on the east side of N. Center Court are significantly larger and range in size from two acres to five acres.

The subject site is served by a septic system. Being that the system was installed in 2024, there's no need for a septic compliance inspection as part of the current Variance process.

PROPOSAL ANALYSIS

The attached application materials indicate that the property owners would like to remove the existing dwelling with attached garage and redevelop the property with a new dwelling and attached garage in generally the same location. Building plans have not been provided; however, the attached site plan and Impervious Surface Calculation Worksheet suggest that the dwelling and attached garage measure a combined 1,814 sf. In order to redevelop the site as

desired, the property owners are seeking Variance approval for an approximate 43'6" OHWL setback where the required setback is 75', an 8'6" northerly side yard setback where the required setback is 10', and a 5' Township Right-of-Way setback where the required setback is 20'. As proposed, the dwelling will meet the southerly side yard setback of 10'.

The proposed amount of impervious surface coverage is reported to be 23.7%, which is below the maximum allowable amount of 25%.

Based on the RR District classification and the size of the subject site, the maximum allowable amount of accessory storage space is 1,000 sf. While the previous Zoning Ordinance included the attached garage in the accessory storage space calculation, the recently adopted Zoning Ordinance does not. Being that there are no detached accessory storage structures shown on the site plan, staff does not have any concerns related to the amount of accessory storage space.

The property owners have provided a written narrative for the Board's consideration. The narrative partially addresses the State mandated practical difficulty standard by explaining that:

- The Variances are necessary because of an existing non-conforming lot size. Due to the small size of the lot and location of the existing structure, options are very limited without Variances. Staff notes that this is essentially a way of explaining that the subject site predates the County's adoption of official land use controls and is considered legal non-conforming in terms of lot area and lot width, which the County refers to as pre-existing development. Pre-existing development is often cited by the Board as a basis to establish uniqueness of a subject property.
- The new home will more closely fit the current character of the neighborhood. Many of the other houses in the area required Variances.

Staff suggests that the bullet pointed information above addresses the State mandated practical difficulty standards of *uniqueness* and *essential character*, and would also offer that the request is *reasonable* in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property.

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

	RR District / Shoreland Management District Standards	Proposed
Road Setback	20' to Township Right-of-Way Boundary	5'
Ordinary High Water Level (OHWL) Setback	75'	43'6"

Side Yard Setback	10' for dwelling and attached garage	8'6" (north) and 10' (south)
Impervious Surface Coverage	25%	23.7%

REVIEW PROCESS

The Technical Review Committee met with Byron & Judy Dahlheimer on February 12, 2025. The property owners shared that a new well and septic system were installed in 2024, with the septic system designed for a two-bedroom dwelling. In order for the new system to be installed, a non-conforming shed, which is shown on the attached survey, was removed. The property owners explained that they intend to construct a new driveway at the same elevation as the neighboring driveways.

The Chisago Lake Town Board considered the request on February 18, 2025 and recommended approval with no conditions and a comment of "new well and septic already installed; no substantial increase in footprint".

The State mandated 60-day review period will expire on April 5, 2025.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report.

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 practical difficulties to the property owner in the use of this 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 property owners have suggested that lot size is a unique characteristic or exceptional and extraordinary circumstance related to this request. Staff concurs that the subject site, having been platted in 1955 prior to the County's adoption of official land use controls, is smaller in area and width than required by current standards, which constitutes pre-existing development. The property owners 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 necessarily deprive the property owners of rights commonly enjoyed by other RR District / Shoreland Management District properties. Properties located in the RR District / Shoreland Management District have the right to be developed with dwellings and the subject site has been developed with a dwelling. Further, as a legal non-conforming structure, the property owners have a statutory right to continue – including through repair, replacement, restoration, maintenance or improvement – use of the dwelling in its current size and location.

However, over the past several years, the Board has granted a number of similar Variance requests in this same neighborhood and district. Being that the property owners are proposing redevelopment of the subject site in a manner consistent with neighboring properties and consistent with past Variances granted by the Board, staff does agree that literal interpretation of the Zoning Ordinance would in effect deprive the applicants of rights enjoyed by other properties in the same neighborhood and district.

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 platted 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 and unique 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 attached garages are Permitted Uses in the RR 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 practical difficulty;

Given the lot area, lot dimensions, and lot configuration, staff does believe that the property owners have presented a proposal which includes the least amount of Variance needed. While the request for Variance does include three separate setback Variances, it appears to staff that the property owners have made a conscious effort to redevelop the subject site with a reasonably sized dwelling (in relation to the property itself) and has made effort to protect North Center Lake by not encroaching any closer toward the Ordinary High Water Level and by keeping the amount of impervious coverage within the maximum allowable amount of 25%.

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

The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance related to the property, and when it will not alter the essential character of the surrounding area. Staff believes that the request is reasonable in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it

constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

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 applicants did 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 west half of the subject site is located within a FEMA flood zone, the proposed dwelling and attached garage are shown to be located entirely outside of the flood zone.

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 8.07 Variances, D. states that in considering all requests for Variances, the Board of Adjustment and Appeals shall make certain Findings of Fact. Staff has provided draft 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;

Finding #1 *The applicants have provided a site plan showing that the proposed dwelling with attached garage will be situated as close as 10' from the southerly property boundary and as close as 8'6" from the northerly property boundary, where the required side yard setback is 10', and bordered by a public roadway along the easterly property boundary and bordered by a public body of water along the westerly property boundary. While the proposed structure will be located closer to the northerly property boundary than the existing structure, the County finds that the proposed setback is consistent with surrounding development. Therefore, 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.*

- Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;
- Finding #2 *The proposed action will not change the primary use of the subject site or directly cause an increase in the number of residents; therefore, the County finds that the proposed dwelling with attached garage will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on N. Center Court or surrounding Township roads following its review of the request on February 18, 2025.*
- Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;
- Finding #3 *The permit holders will be required to obtain a building permit prior to construction of the proposed dwelling with attached garage and the structure will, therefore, be constructed in compliance with all applicable building and fire codes. The County finds that this compliance will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.*
- Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;
- Finding #4 *The subject site is currently developed with a dwelling and attached garage and the proposed action will not change how the property is being used. The proposed dwelling with attached garage will be located in the same general location as the existing dwelling with attached garage, with the exception that it will be located closer to the northerly property boundary (side yard). Based on existing development within this particular neighborhood, including the property directly north, and existing setbacks of neighboring structures, the County finds no evidence to suggest that the proposed action will have 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 subject site is currently used for residential purposes and the proposed action will not change how the property is used. The site is and will continue to be served by a well and septic system and accessed by a well-established Township road system (325th Street and N. Center Court). Therefore, the County finds that the proposed action will not create 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 County finds no evidence to suggest that the proposed action will have any negative fiscal impact on the County or school district. The County finds that the proposed action, resulting in a new dwelling, will likely increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 (RR) District / Shoreland Management District. The intent of Zoning Ordinance Section 5.13 is to establish minimum structural setback requirements, including side yard setback, and the intent of Shoreland Management Ordinance Section 6.4 is to establish minimum setback requirements from the Ordinary High Water Level of waterbodies and roadways within the Shoreland Management District.

While the proposed dwelling with attached garage will encroach on the required Ordinary High Water Level, northerly property boundary (side yard), and Township Right-of-Way boundary, the County finds that the proposed action is reasonable in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

STAFF RECOMMENDATION

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 draft Findings of Fact (see above) and recommended conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended conditions:

1. This approval grants the following Variances:

- a. A 31'6" Variance to the Ordinary High Water Level setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 43'6" to the Ordinary High Water Level of North Center Lake.
- b. A 1'6" Variance to the northerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8'6" from the northerly property boundary.
- c. A 15' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 5' from the N. Center Court Right-of-Way boundary.

2. Per the Chisago County Shoreland Management Ordinance, the structure shall not exceed 25' in height.
3. Except as specifically conditioned herein, the dwelling with attached garage shall be constructed in general conformance with the application materials, including "new build" site plan, dated received January 28, 2025. 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 owners' expense.
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.

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.
3. **Table** action to allow for further review and consideration. The current review period expires on April 5, 2025, allowing the Board to continue its review at the March 27, 2025 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2025-0201, a resolution approving a Variance allowing reduced Ordinary High Water Level, northerly side yard, and Township Right-of-Way setbacks on property located at 32730 N. Center Court in Chisago Lake Township, as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Survey
 - d. Site plan – "Existing" conditions
 - e. Site plan – Proposed ("new build") conditions
 - f. Impervious surface calculation worksheet
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Draft Resolution No. BOAA2025-0201



Chisago County Department of Environmental Services Planning & Zoning Application

Permit # 25-00083

Township Chisago Lake North S/T/R S 22 T 34 R 20 PID# 02.01079.00

Project Address 32730 N Center CT

Property Owner(s) Byron & Judy Dahlheimer

Mailing Address (If Different from Project Address) 33091 Oasis Rd

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Byron & Judy Dahlheimer

Mailing Address (If Different from Project Address) 33091 Oasis Rd Center City

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 Set Back VARIANCE

See Attached Narrative

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

☐ Full Legal Description

☐ Detailed Site Plan

☐ Detailed Written Narrative

☐ Plat Drawings

Byron Dahlheimer
Applicant Signature

1/28/25
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>750</u>	Application Received	<u>1-28-25</u>
Recording Fee	\$ <u>46</u>	Application Complete	<u>2-4-25</u>
Plat Fee -- No Road(s) / With Road(s)	\$ _____	☒ 60/ 120 Day Review Period	<u>4-5-25</u>
Septic Compliance Fee	\$ _____	Extended Review Period	_____
Wetland Fee	\$ _____		
TOTAL FEE	\$ <u>796</u>		



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Chisago Lake North S/T/R S 22 T34 R20 PID# 02.01079.00

Project Address 32730 N Center CT

Property Owner(s) Byron & Judy Dahlheimer

Mailing Address (If Different from Project Address) 33091 Oasis Rd Center City

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Byron & Judy Dahlheimer

Mailing Address (If Different from Project Address) 33091 Oasis Rd Center City

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 Set Back Variances
See Attached Narrative

Byron Dahlheimer
Applicant Signature

1/28/25
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.

Date of County Public Hearing FEB 27, 2025 Date of Township Presentation FEB 18, 2025

Township Action Taken (Township Use Only)

☒ Recommendation of Approval

☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

new well & septic already installed - no substantial
increase in footprint

Signatures of Township Officials or Authorized Personnel

[Signature] [Signature]
[Signature] [Signature]

Chisago County Environmental Service Variance Essay

Enclosed is our application for several variances to construct a residential home at 32730 North Center Court. The original construction is from 1956. Variances are necessary because of a existing non conforming lot size.

We are proposing to build our new home to closely fit the current character of the neighborhood and build a comfortable, efficient, long lasting home.

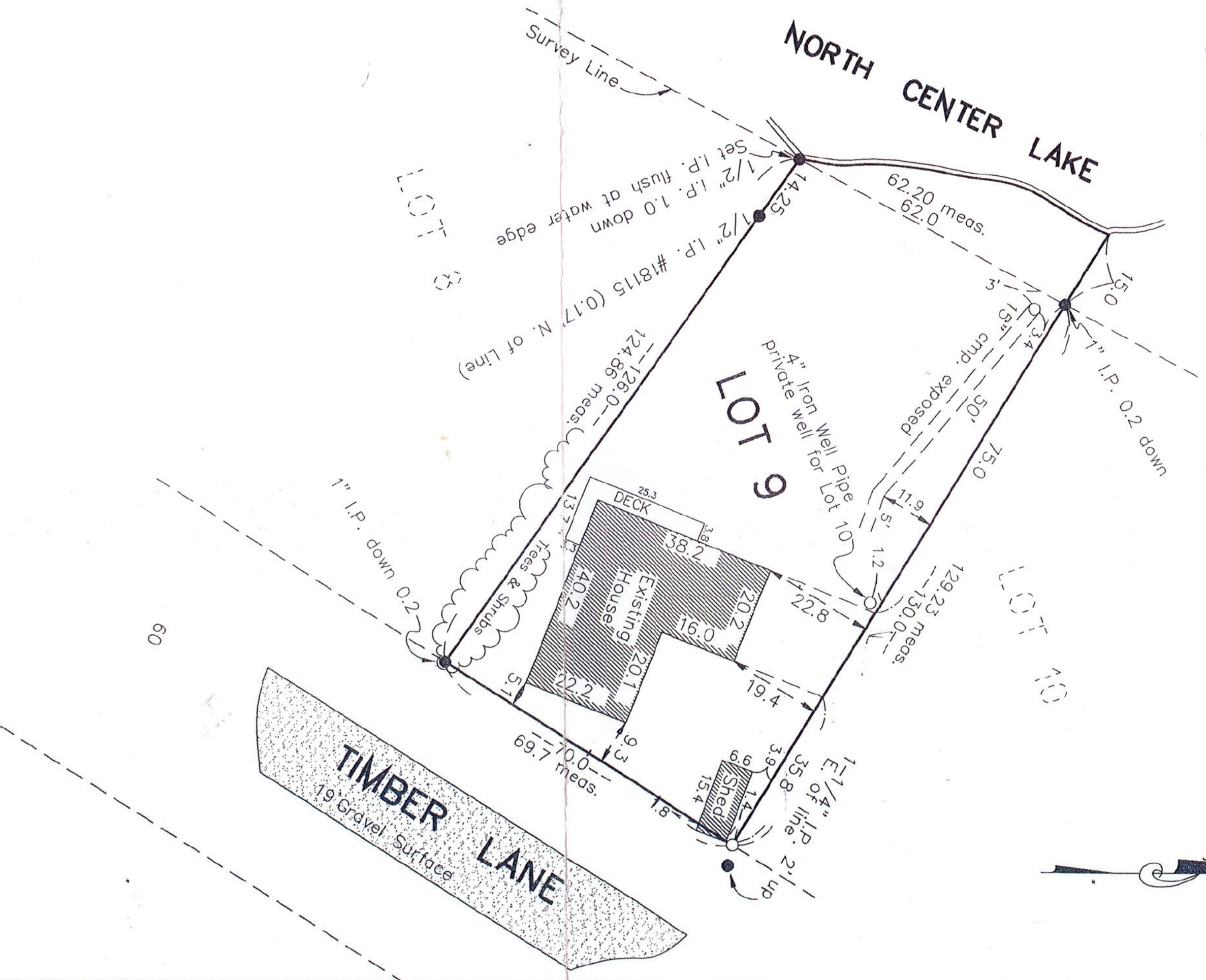
In preparation for this new build, we relocated and installed a new septic system and installed a new well in accordance with state and county guidelines. Additionally, a small non permanent shed was removed from the property. In order to further our project, additional variances are needed including:

- Right Of Way Setback
- Side Setback
- Structure Ordinary High Water Mark(O.H.W.)

Variances are needed due to multiple conditions, first and foremost lot size. Due to the small size of the lot and location of the existing structure our options are very limited without variances. In addition, we are proposing to build a new structure that more closely fits the current character of the neighborhood. Many of the other houses in this area required variances like ours in order to trend with neighborhood opinion.

Certificate of Survey

FOR: **Caren Jarmagin**



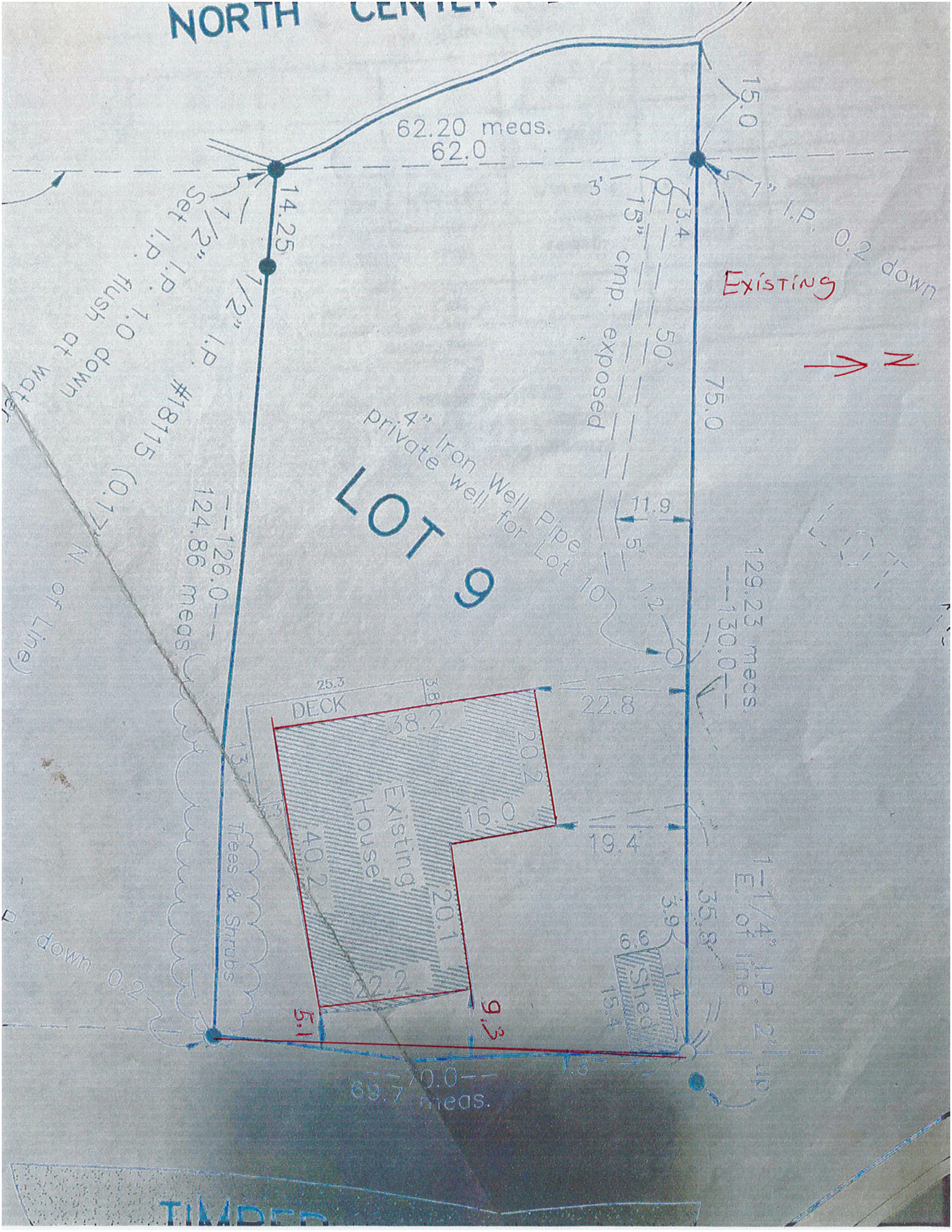
Lot 9, Chi-Gak-Wa Shores, Chisago County, Minnesota.

Scale: 1"=20'
Book 23
Page 42
Job No. 93612.5

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota. Dated this 26th day of August 1993
Caren Jarmagin
Registration No. 9808

EGGRUD & SONS, INC.
LAND SURVEYORS
9180 LEXINGTON AVE. NO.
CIRCLE PINES, MINNESOTA
55014-3625 TEL. 786-5556

NORTH CENTER



62.20 meas.
62.0

15.0

Existing

N

LOT 9

4" private iron well pipe for Lot

15" c.m.p. exposed

75.0

129.23 meas.
130.0

DECK

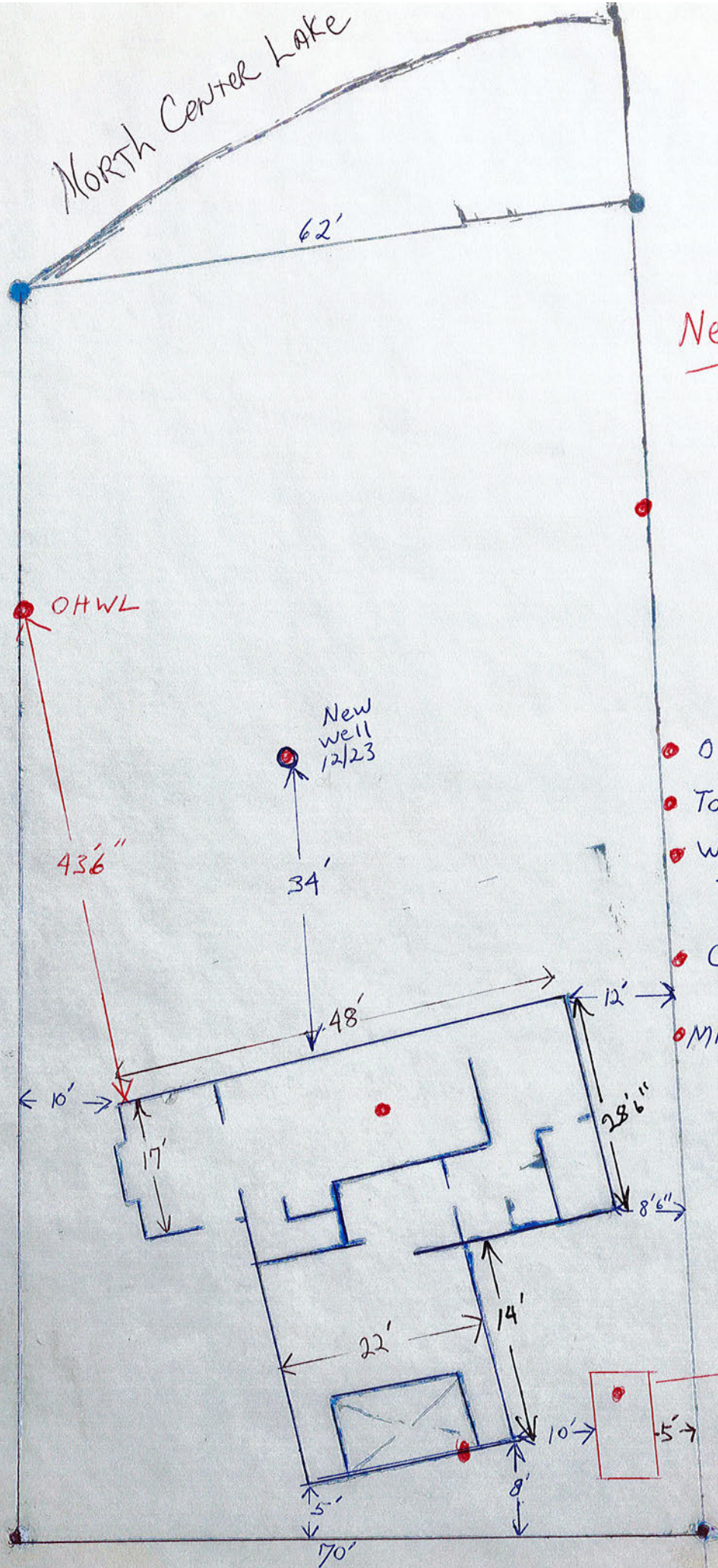
Existing House

Shed

1 1/4" I.P. 2' up
E. of line

69.7 meas.

TIMBER



New Build

→ Z

Elevation Map

- OHWL 900.2
- Top New Well 903.90
- West Cover Septic Tank 907.00
- Garage floor 908.00
- Main Floor 906.80

Impervious Surface Calculation Worksheet

Required for properties located within the Shoreland Management District

AREA OF PROPERTY

Acres:		Square Feet Per Acre:		Total Area of Property in Square Feet:
.21	x	43,560	=	9147.6

Impervious surface coverage of lots/parcels within the Shoreland Management District is limited to 25%. Per the Chisago County Shoreland Management Ordinance, "impervious surface" is defined as a constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

IMPERVIOUS SURFACE CALCULATION

Residential Structures:	Length x Width	=	Square Footage of Structure
(example)	(20' x 40')	=	(800)
Dwelling	107' x 16'	=	1712
Attached garage	10' x 12'	=	120
Detached garage		=	
Deck	10' x 12'	=	120
Patio		=	
Sidewalk	3' x 30'	=	90
Driveway	6.5' x 23'	=	149.5
Others (list):		=	
		=	
		=	
		=	
		=	
TOTAL RESIDENTIAL STRUCTURES:			2173

Agricultural Structures:	Length x Width	=	Square Footage of Structure
(example)	(80' x 120')	=	(9,600)
Barn		=	
Machine shed		=	
Grain bin		=	
silo		=	
Others (list):		=	
		=	
		=	
		=	
		=	
		=	
		=	
TOTAL AGRICULTURAL STRUCTURES:			

Other Items:	Length x Width	=	Square Footage of Structure
Roadway (if not publicly dedicated)		=	
Landscaping with plastic barrier		=	
Others (list):		=	
		=	
		=	
TOTAL OTHER ITEMS:			

CALCULATE

Total from Residential Structures	2173	+
Total from Agricultural Structures	0	+
Total from Other Items	0	+
TOTAL SQUARE FOOTAGE OF COVERAGE:	2173	=
Divide by total area of property listed above	9147.6	/
TOTAL IMPERVIOUS SURFACE	23.7	%

Byron Dahlheim
Signature of Preparer

1/27/25
Date of Preparation

Byron & Judy Dahlheimer – Property owners Byron & Judy Dahlheimer are requesting a Variance allowing for reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly side yard, and the Township Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling. The .21± acre subject site is zoned Rural Residential (RR) District / Shoreland Management District and located at 32730 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01079.00).



Byron & Judy Dahlheimer – Property owners Byron & Judy Dahlheimer are requesting a Variance allowing for reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly side yard, and the Township Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling. The .21± acre subject site is zoned Rural Residential (RR) District / Shoreland Management District and located at 32730 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01079.00).



RESOLUTION NO. BOAA2025-0201
A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING REDUCED ORDINARY HIGH WATER LEVEL,
NORTHERLY SIDE YARD, AND TOWNSHIP RIGHT-OF-WAY SETBACKS ON PROPERTY LOCATED AT
32730 N. CENTER COURT IN CHISAGO LAKE TOWNSHIP

WHEREAS, property owners Byron Dahlheimer & Judy Dahlheimer submitted an application dated received January 28, 2025 and considered complete on February 4, 2025 for a Variance to Chisago County Zoning Ordinance Section 5.13 and Chisago County Shoreland Management Ordinance Section 6.4; and

WHEREAS, the property owners are seeking Variance approval allowing reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly property boundary (side yard), and the N. Center Court Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling with attached garage; and

WHEREAS, the .21± acre subject site is located in the Rural Residential (RR) District / Shoreland Management District; and

WHEREAS, the subject site is legally described as:

PID 02.01079.00
Lot Nine (9), Chi-Gak-Wa Shores, Chisago County, Minnesota.

WHEREAS, notice was provided and on February 27, 2025 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner(s), 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 8.07 Variances:

- | | |
|--------------------|--|
| Criteria #1 | The proposed action will not impair an adequate supply of light and air to adjacent property; |
| Finding #1 | <i>The applicants have provided a site plan showing that the proposed dwelling with attached garage will be situated as close as 10' from the southerly property boundary and as close as 8'6" from the northerly property boundary, where the required side yard setback is 10', and bordered by a public roadway along the easterly property boundary and bordered by a public body of water along the westerly property boundary. While the proposed structure will be located closer to the northerly property boundary than the existing structure, the County finds that the proposed setback is consistent with surrounding development. Therefore, the County finds that the proposed dwelling will be</i> |

sufficiently distanced from neighboring properties so as not to impair an adequate supply of light and air to adjacent properties.

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

Finding #2 *The proposed action will not change the primary use of the subject site or directly cause an increase in the number of residents; therefore, the County finds that the proposed dwelling with attached garage will not cause any increase in the amount of traffic generated at the subject site and will not increase congestion on surrounding public roadways. Further, the Chisago Lake Town Board, serving as Road Authority, did not express any concerns related to impacts on N. Center Court or surrounding Township roads following its review of the request on February 18, 2025.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

Finding #3 *The permit holders will be required to obtain a building permit prior to construction of the proposed dwelling with attached garage and the structure will, therefore, be constructed in compliance with all applicable building and fire codes. The County finds that this compliance will help ensure that there will be no increase to the danger of fire or endangerment of the public's safety.*

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

Finding #4 *The subject site is currently developed with a dwelling and attached garage and the proposed action will not change how the property is being used. The proposed dwelling with attached garage will be located in the same general location as the existing dwelling with attached garage, with the exception that it will be located closer to the northerly property boundary (side yard). Based on existing development within this particular neighborhood, including the property directly north, and existing setbacks of neighboring structures, the County finds no evidence to suggest that the proposed action will have 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 subject site is currently used for residential purposes and the proposed action will not change how the property is used. The site is and will continue to be served by a well and septic system and accessed by a well-established Township road system (325th Street and N. Center Court). Therefore, the County finds that the proposed action will not create 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 County finds no evidence to suggest that the proposed action will have any negative fiscal impact on the County or school district. The County finds that the proposed action, resulting in a new dwelling, will likely increase the property value which will, in fact, create a positive fiscal impact for both the County and 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 (RR) District / Shoreland Management District. The intent of Zoning Ordinance Section 5.13 is to establish minimum structural setback requirements, including side yard setback, and the intent of Shoreland Management Ordinance Section 6.4 is to establish minimum setback requirements from the Ordinary High Water Level of waterbodies and roadways within the Shoreland Management District.*

While the proposed dwelling with attached garage will encroach on the required Ordinary High Water Level, northerly property boundary (side yard), and Township Right-of-Way boundary, the County finds that the proposed action is reasonable in that dwellings and attached garages are reasonable and customary uses of the residentially zoned lakeshore property; that the subject site is unique in that it constitutes pre-existing development; and, that the proposed dwelling with attached garage will not alter the essential character of the neighborhood given that it will generally align with neighboring dwellings and it won't be out of scale for the subject site or general area.

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

1. This approval grants the following Variances:

- a. A 31'6" Variance to the Ordinary High Water Level setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 43'6" to the Ordinary High Water Level of North Center Lake.
- b. A 1'6" Variance to the northerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8'6" from the northerly property boundary.

- c. A 15' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 5' from the N. Center Court Right-of-Way boundary.
2. Per the Chisago County Shoreland Management Ordinance, the structure shall not exceed 25' in height.
3. Except as specifically conditioned herein, the dwelling with attached garage shall be constructed in general conformance with the application materials, including "new build" site plan, dated received January 28, 2025. 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 owners' expense.
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.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 27th day of February, 2025.

Gregg Carlson _____
Douglas Greene _____
John Sutcliffe _____

Jolene Wille _____
Charles Yeager _____

Chair

ATTEST:

Beth Gervais
Land Services Coordinator



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Annual Review of Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure
 DATE: February 27, 2025

BACKGROUND & DISCUSSION

Per Section 2. of the Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure, the Board of Adjustment and Appeals is tasked with completing an annual review of the Policy with any recommended changes or amendments, agreed to by a majority vote, being presented to the County Board for adoption. Staff requests that the Board review the attached Policy, which was adopted by the County Board on February 21, 2024, and take action to establish rules of order and operating policies for 2025. The Board's recommendation, along with a recommendation from the Planning Commission, will be presented to the County Board for consideration.

The Planning Commission completed its review on February 6, 2025 and reached consensus on the following recommended amendments:

1. **Section 5. Quorum** – The Commission discussed the meaning of “quorum” and reached consensus on recommended wording for the second sentence of “In each case the minimum required for the Planning Commission quorum would consist of four (4) of seven (7) members present and the Board of Adjustment and Appeals quorum would consist of ~~be~~ three (3) of five (5) members present.”
2. **Section 11. Rules of Procedure for Meetings, (I)** – The Commission discussed a typo contained in Section 11 (I) and reached consensus that the term “vice voce” should be amended to read “viva voce”.
3. **Section 12. Meeting Decorum, (D)** – The Commission discussed the meaning of the term “electronic communication devices” and reached consensus on recommending that Section 12 (D) be amended to read, “All electronic communication devices shall be turned off or silenced during meetings.”

The Board has the ability to offer support for the Commission's proposed amendments, present the County Board with additional or differing proposed amendments, or propose no modifications or amendments to the existing Policy.

OPTIONS / ACTION REQUESTED

1. Motion to recommend that the existing Policy be established as “rules of order and operating policies” for 2025.
2. Motion to recommend changes and/or amendments to the existing Policy.

ATTACHMENTS

1. Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure (Resolution No. 24/0221-3)



Chase Burnham
County Administrator

COUNTY OF CHISAGO

BOARD OF COMMISSIONERS

Chisago County Government Center
313 North Main Street, Room 172
Center City, MN 55012-9663

Commissioners:
District 1
Jim Swenson
District 2
Rick Greene
District 3
Marlys Dunne
District 4
Ben Montzka
District 5
Dan Dahlberg

Commissioner Montzka offered the following resolution and moved its adoption:

RESOLUTION NO. 24/0221-3

A RESOLUTION OF THE BORD OF COMMISSIONERS OF CHISSAGO COUNTY, MINNESOTA, APPROVING PLANNING COMMISSION AND BOARD OF ADJUSTMENT AND APPEALS POLICY ON COMMISSION/BOARD STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE

SECTION 1. PURPOSE

The purpose of this policy is to provide a set of operating procedures for the Planning Commission and Board of Adjustment and Appeals, and to establish a code of ethics and conduct.

SECTION 2. ANNUAL REVIEW

This policy shall be reviewed annually by the Planning Commission and Board of Adjustment and Appeals, and any changes or amendments agreed to by a majority vote of each body shall be recommended to the County Board for adoption.

SECTION 3. REGULAR MEETINGS

Regular meetings shall be held at the Chisago County Government Center or other Officially Noticed location at 313 North Main Street, Center City, Minnesota. The meeting schedule shall be as follows:

- Planning Commission shall be held on the first Thursday of each month.
- Board of Adjustment and Appeals shall be held on the last Thursday of each month.

The usual meeting time shall be 7:00 PM unless otherwise noticed. At such meetings, the Commission/Board may consider all matters properly brought before the Commission/Board. A regular meeting may be cancelled or rescheduled by the Commission/Board or by County Staff (in which there are no planning applications) or in observance of a recognized holiday conflict. Rescheduled meetings shall require a motion of new meeting date.

SECTION 4. SPECIAL MEETINGS

Special meetings of the Planning Commission or Board of Adjustment and Appeals may be called by the Zoning Administrator who shall designate the time, place and purpose of the meeting. Notice of special meetings must conform to the Minnesota Open Meeting Law. Written or email notice, thereof shall be given to all members not less than 24 hours in advance of the special meeting except in the case of an emergency.

SECTION 5. QUORUM

In order for any meeting to be called to order, a quorum is identified as a majority of members present and remotely attending. In each case the minimum required for the Planning Commission quorum would consist of four (4) members and the Board of Adjustment and Appeals quorum would be three (3) members present. During the course of any meeting, a majority of members must be present to take action on any matter before the Commission/Board.

SECTION 6. MEETINGS AND THE OPEN MEETING LAW

In accordance with the Minnesota Open Meeting Law (Minnesota Statute Chapter 13D), all official meetings

shall be open to the general public. An "official" meeting is any gathering, or simultaneous or serial communication (via email, telephone or otherwise), between a quorum of members for the purpose of considering the public business of the Planning Commission or Board of Adjustment and Appeals. Informal gatherings and communications such as site visits and conference telephone calls, therefore, may constitute an official meeting. The Planning Commission or Board of Adjustment and Appeals may exclude the public from its meeting only in certain very limited cases identified in the Open Meeting Law with the guidance of the County Attorney.

SECTION 7. VOTING AND RECOMMENDATIONS

(A) **Voting.** At all meetings of the Planning Commission, each member attending, with the exception of the *ex officio* Chisago County Board member, shall be entitled to cast one vote on all issues unless a particular issue involves a conflict of interest. At all meetings of the Board of Adjustment and Appeals, each member attending shall be entitled to cast one vote on matters before the Board, unless a particular issue involves a conflict of interest. The affirmative vote of a majority of members in attendance shall be necessary for the adoption of any resolution or other voting matter. The results of any vote shall be recorded, listing those voting Aye and those voting Nay. All recommendations shall be sent to the County Board by means of written minutes and shall include the record of the division of votes on each recommendation.

(B) **Conflict of Interest.**

1. A member has a conflict of interest in any matter or application before the Commission or Board where he or she has a direct personal or business interest in the matter pending before the Commission or Board or where he or she has an indirect interest in the matter through association or affiliation with the person or business that has brought the pending matter. A member who believes he or she may have a conflict of interest may consult with and obtain a confidential legal opinion from the County Attorney's Office as to whether he or she has a conflict of interest which should be disclosed and from which he or she should disqualify himself or herself.
2. Any question on whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the attending members except the member who is being challenged. Any person may, in person or in writing, challenge whether any member may have a conflict of interest. Upon any such challenge, the Planning Commission and Board of Adjustment shall decide the question pursuant to the above stated rule. A member who was not present at the hearing of any matter to come before the Commission or Board, may not vote on the same matter, nor any absent member record his vote upon any question.
3. Any member, who believes he or she may have a conflict of interest concerning the matter or application then before the Commission or Board, shall disclose his/her interest and disqualify himself or herself or seek a ruling as provided above. Such member shall leave his or her seat while the Commission/Board takes up the issue of disqualification.
4. Upon a member disqualifying himself or herself or upon disqualification by majority vote as provided above, such member shall not participate as a Commission or Board member in such matter or application in public hearing, deliberation and decision. The Chair shall declare that the member is absent during the proceedings on such matter or application and the minutes shall reflect the member as absent by abstention and took no participation.

5. Any member who is disqualified by reason of a conflict of interest may remain in the meeting room and take a seat in the gallery while the Commission or Board takes up such application. The member may give testimony and other evidence during the public hearing whether in support of or opposition to such pending application and the member may remain in the meeting room, if he or she chooses, while the Commission or Board deliberates and decides on such application. The member may be allowed to return to his or her seat only after the Commission or Board has reached a decision on such application or moves on to other business.

SECTION 8. REGULAR PROCEEDINGS

(A) At any regular meeting, the following shall be the regular order of business:

1. Call to Order - Pledge of Allegiance
2. Roll Call
3. Approval of Agenda
4. Minutes of the Preceding Meeting(s)
5. Receipt of Materials and Submissions
6. Public Hearings - New Applications
7. Public Hearings - Continued Hearings
8. Old Business
9. New Business
10. Communications and Reports
11. Miscellaneous
12. Adjournment

The order of business may be varied by the presiding officer, but no public hearings shall be held at an earlier time than specified in the notice of hearing.

(B) Each formal action of the Planning Commission or Board of Adjustment and Appeals required by law, rules, regulations or policy shall be embodied in a formal vote duly entered in full in the official minutes after an affirmative vote as provided in Section 7 hereof and may be accompanied by written findings of fact.

SECTION 9. AGENDA AND DEADLINE FOR AGENDA

- (A) **Purpose.** The agenda of a meeting serves two important functions: it focuses deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and, it serves as the public's only guide to what will be considered at the meeting, how the matter be dealt with, who will participate in the discussion, and when public comment may be made. The agenda should be prepared so as to best achieve these functions.
- (B) **Deadlines.** The working agenda for the meeting shall be prepared by the county environmental services staff and shall be closed at noon the Thursday prior to the meeting for preparation purposes.
- (C) **Submissions.** Any member may seek to place an item on the agenda by requesting the same to county staff responsible for agenda preparation prior to noon the Thursday prior to the meeting. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.
- (D) **Delivery of Agenda to Members.** At least four calendar days before the meeting, the county staff shall provide each member a meeting agenda and all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).

- (E) **Agenda Discussion Items - Additions During Regular Meetings.** Additional discussion items may be added to the agenda at the time of adoption/approval of the agenda during the meeting subject to approval by a majority vote of the members present. The additional items may be discussed, but no formal action may be taken.

If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a conditional use permit or variance), involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), or requires legal notice elements, the Commission or Board may add the item to the agenda only for purposes of referring it to county staff, or scheduling it for consideration at a later meeting (as appropriate). The Commission may not discuss the substance of the matter or take any final action on the item except at a meeting where the item is included on the distributed agenda.

SECTION 10. MINUTES

- (A) **Purpose.** The minutes of the meetings represent the official record of the Commission and Board's deliberations and actions. As such, they record the vote on actions and the reasons for the vote. The minutes also communicate background on the Planning Commission's recommendations to the County Board, provide perspective on issues, and provide a historical record of proceedings. Furthermore, state law requires the Commission and Board to keep full and accurate minutes of all official meetings and requires that those minutes be retained and be available for public inspection by any person subject to the state public records law and the county records retention schedule.
- (B) **Duties of Staff Preparing Minutes.** County staff shall prepare minutes of all Planning Commission and Board of Adjustment and Appeals meetings. The minutes shall state:
1. Which members were present and absent, and whether absent members were excused or not excused.
 2. A summary of staff and committee reports and recommendations, applicants' presentations, public comments, and the discussion on each item.
 3. The content of each principal motion before the Commission or Board, the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion).

SECTION 11. RULES OF PROCEDURE FOR MEETINGS

All meetings of the Planning Commission and Board of Adjustment and Appeals shall be conducted in accordance with the following Rules of Order.

- (A) Any motion may be withdrawn at any time before action is taken on it.
- (B) When a motion is under debate, no other motion shall be entertained except one to call the question, postpone for consideration to a date certain, or amend. Motions shall take precedence in that order.
- (C) All motions shall be carried by a majority vote of the members present and remotely attending.
- (D) Only members recognized by the Chair can make motions.
- (E) Speaking without recognition of the Chair shall be cause for another member to call "point of order" and

the member speaking out of turn must relinquish the floor.

- (F) "Call the question" is a motion and must be seconded. It is not debatable and must be voted upon immediately.
- (G) "Question" is not a motion but only an indication to the Chair that the person making a statement is ready to have the motion or question put to a vote.
- (H) The Chair may direct that a motion be divided if requested by a member.
- (I) "Vice voce" means voice vote. All votes shall be taken by voice vote or a show of hands, rather than by paper ballot, except that a ballot vote may be called for at the discretion of the Chair.
- (J) Members must limit their remarks to the subject matter being discussed and shall not be repetitious. The speaking order shall be at the discretion of the Chair; however, all members shall be allowed to speak in their turn. Each member, while speaking, shall avoid all personal, indecorous, profane or sarcastic language.
- (K) If a motion is unnecessary, unsuitable for consideration, and/or proposed at an inopportune time for the purpose of delaying or embarrassing others, the presiding officer may rule the motion out of order on her/his own initiative.

SECTION 12. MEETING DECORUM

- (A) Hats or caps worn at the hearing shall be removed by anyone addressing the Commission or Board.
- (B) At no time will the public be allowed to confront the applicant or members of the Planning Commission or Board of Adjustment and Appeals with derogatory language or in an unprofessional manner including the use of profane language. The Chair shall have the discretion to require a person to leave the hearing if this occurs.
- (C) Rebuttals to testimony, whether by the public, applicant, staff or Planning Commission or Board of Adjustment and Appeals members will not be allowed.
- (D) All electronic communication devices shall be turned off during meetings.

SECTION 13. PUBLIC HEARINGS

- (A) A public hearing is a noticed, official hearing, the express and limited purpose of which is to provide an equitable opportunity for the public to speak on matters before the Commission or Board.
- (B) For certain matters considered by the Planning Commission and Board of Adjustment and Appeals, a requirement to conduct a public hearing is prescribed by State law, the County's Zoning Ordinances or by County Policy/Resolution.
- (C) The Commission or Board may neither deliberate nor take a substantive vote during a public hearing but may ask questions for the sake of clarification of speakers.
- (D) Upon the Chair resuming their regular meeting after the close of the public hearing, the Commission/Board may take action upon the matter discussed at the public hearing.
- (E) Conduct of Persons Before the Planning Commission and Board of Adjustment and Appeals:

1. During all public hearings required by State law or ordinance, members of the public shall be given reasonable opportunity to speak. A sign-up sheet will be available for those persons wishing to testify at the hearing. Members of the public that wish to testify shall first state their names for the record. In order to promote meeting efficiency, the Chair may discourage duplicative testimony and may place reasonable time limits, generally three (3) minutes, on the amount of time that individuals have to speak. Comments should be related to the item at hand and should be addressed to the Chair. Where a comment is irrelevant, inflammatory, disruptive or prejudicial, the Chair may instruct the Commission or Board to "disregard" the comment, which nevertheless remains in the public record.
 2. During all regular and special meetings, the public may be present but shall remain silent unless specifically invited by the Chair to provide comment.
 3. During all proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with reasonable rights of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the Chair as "out-of-order" and the offending person directed to remain silent. Once, having been so directed, if a person persists in disruptive conduct, the Chair may order the person to leave the Planning Commission meeting or hearing. Where the person fails to comply with an order to leave, the Chair may then call upon civil authority to physically remove the individual from the chamber.
 4. The Chair may impose additional limits or rules upon members of the public as permitted by Section 15.
- (F) Additional Rules of Procedure for Public Hearings

1. **Public Hearing Format.** Public hearings shall be conducted in the following manner:

- (a) The presiding officer calls the public hearing to order and declares the time of opening.
- (b) It is the intent of the Planning Commission and Board of Adjustment and Appeals to open all public hearings at the predetermined and published time. From a practical standpoint, not all hearings can be opened at their designated time. The presiding officer may delay the start of a hearing until the business at hand is acted upon, in any manner, by the Commission or Board. However, in no circumstances can a hearing be opened prior to the predetermined and published time.
- (c) The presiding officer shall read, from the hearing notice, the details on the hearing sufficient to provide the public a general understanding of the purpose and procedures for the hearing, and the fact that the hearing is their exclusive or primary opportunity to provide input to the county on the subject.
- (d) County staff and/or a county staff consultant make a presentation or report on the subject matter for the hearing at the direction of the presiding officer.
- (e) The applicant (if any) may make a presentation or report on the subject matter for the hearing at the direction of the presiding officer.
- (f) The presiding officer asks Commission or Board members if they have questions of the applicant, consultant or staff, if any.
- (g) The presiding officer announces that input will be received from the citizens, requesting that

each speaker provide a name, noting any applicable time limits for comment from individual members of the public, any other applicable rules and explaining the procedure for enforcement of such rules.

- (h) After members of the public have spoken, the presiding officer requests a motion to:
 - i. Close the public hearing, and the Planning Commission or Board of Adjustment and Appeals votes on the motion. Once the hearing is closed, the record is complete and no further input or evidence from the public shall be allowed.
 - ii. Continue a public hearing. If the Commission or Board votes to continue the hearing to a date certain, the presiding officer shall, in consultation with staff, select and announce a time and date certain for the continued public hearing. No additional publication or notice requirements are needed if a hearing is continued to a later date. However, no public hearing may be continued more than once without re-notice and publishing the time, date and location of the hearing.
- (i) The Planning Commission or Board of Adjustment and Appeals addresses the subject matter through deliberation, questions to applicants and/or their representative and staff, and reactions and statement of position on the subject.
- (j) If the public hearing is closed, the Planning Commission or Board of Adjustment and Appeals may take action on the application before them. The Commission or Board may formulate a recommendation which outlines the parameters under which an approval would be granted or a denial. The reasons and conditions shall be stated in the motion or resolution for approval or denial. Continuation of an action may occur in the event insufficient information is present to make a decision or the record needs to be reviewed to draft written findings consistent the decision subject to 60-day law.

Note: A public summary of policy for Section 11 - Rules of Procedure, Section 12 - Meeting Decorum, Section 13 - Public Hearings, and Section 15 - Duties of Officers shall be posted and made available at every meeting.

SECTION 14. OFFICERS

The officers of the Commission and Board shall consist of a Chair and a Vice-Chair elected by the membership at the annual meeting for a term of one year. In the absence of the Chair and Vice-Chair, the remaining members shall elect a Temporary Chair for that respective meeting.

SECTION 15. DUTIES OF OFFICERS

The Chair is a voting member of the Planning Commission and Board of Adjustment and Appeals and may make motions. In addition, the duties and powers of the officers of the Commission or Board shall be as follows:

- (A) Chair
 - 1. To preside at all meetings of the Commission/Board.
 - 2. To see that all actions of the Commission/Board are properly taken.
 - 3. To invoke a reasonable time limit for speakers during any public hearing in the interest of maintaining focus and the effective use of time.
 - 4. To provide for the selection of one or two spokespersons to represent groups of persons with common interests during public meetings and hearings.

5. To order an end to disorderly conduct and direct law enforcement to remove disorderly persons from meetings or hearings.
6. To schedule a second official public hearing meeting or other continued meeting in the event that a meeting or public hearing cannot be concluded by a reasonable hour in the judgment of the Chair subject to 60-day law.
7. The presiding officer has the responsibility to facilitate discussion by the Commission/Board. This may occur in a variety of ways, including:
 - Interpret and apply rules of procedure.
 - Decide whether motions are properly made.
 - Decide whether motions are in order.
 - Decide when to recognize speakers.
 - Call for motions or recommend motions.
 - Expel disorderly persons from the meeting.
 - Enforce speaking procedures.

(B) Vice-Chair

During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

(C) Staff

Staff of the Chisago County Environmental Services Department shall be responsible as follows:

1. To give staff reports as deemed necessary including, but not limited to sample findings for consideration of the Commission and Board, and recommendations for action.
2. To give or serve all notices required by law or by these procedures herein.
3. To cancel or postpone regularly scheduled meetings.
4. To prepare the agenda for all meetings.
5. To be custodian of records.
6. To inform the Commission or Board of correspondence relating to business and to attend to such correspondence.
7. To handle funds allocated to the Commission and Board in accordance with its directives, the law and county regulations.
8. To take the minutes of all meetings for typing and filing into the appropriate archive.

SECTION 16. MEMBER PARTICIPATION

- (A) An absence from three or more regular meetings in one calendar year may be considered grounds for removal by the County Board.
- (B) Members should inform the Chair and Zoning Staff of any planned absence as far in advance as possible and, to the extent possible, no later than before the end of business day of the regular scheduled meeting in the event of an unplanned absence. This advance notification allows Zoning Staff to confer with the Chair regarding a cancellation of the meeting due to a lack of a quorum.
- (C) If a member arrives after the start of any agenda item, they shall abstain from participating in the consideration or the vote on that pending matter.

SECTION 17. MEMBER REMOTE ATTENDANCE

- (A) A Member may remotely attend a meeting only upon making an advance written request and approval by the Chair at his or her sole discretion, provided that no member shall remotely attend more than three (3) regular meetings and three (3) special meetings in any one year, unless authorized in advance by majority vote of the County Board.
- (B) A member seeking to remotely attend a meeting must make the written request to Zoning Staff no less than two weeks in advance of the meeting in which the remote attendance would occur and the written request should specify the reason for the remote attendance. The Chair may not allow more than two members to remotely attend a regular meeting at any one time and any issue concerning remote attendance shall be resolved by the Chair at his or her sole discretion.
- (C) Once approved by the Chair the notification and posting of remote attendance shall be in accordance with State Statute 13D.015 and Section 13D.02 and Open Meeting Law and all remote attendance must be consistent with the Open Meetings Law.

SECTION 18. RECORDING DEVICES

Electronic recording devices, television cameras, or equipment used by the electronic media will be placed in accordance with the direction of the Chair and will be used in an unobtrusive manner so that its presence will not interfere with the conduct of the meeting.

SECTION 19. AMENDMENTS

These rules shall not be repealed, waived or amended except by a majority vote of the Chisago County Board of Commissioners.

Commissioner Dahlberg seconded the resolution and upon a vote being taken thereon, the following voted:

IN FAVOR THEREOF: Dahlberg, Dunne, Greene, Montzka, Swenson

OPPOSED: None.

Approved: February 21, 2024



Marlys Dunne
Chair, Board of Commissioners

ATTEST:



Chase Burnham
County Administrator





Handwritten signature in blue ink, likely reading "Mark G. Gorman".

Handwritten signature in blue ink, likely reading "John J. Gorman".

