

**CHISAGO COUNTY  
BOARD OF ADJUSTMENT  
OFFICIAL PROCEEDINGS  
June 25, 2020 - DRAFT**

The Chisago County Board of Adjustment met in regular session at 7:00 p.m. on Thursday, June 25, 2020 in a synchronous e-meeting due to Declaration of Local Emergency.

Staff Present: Jessica Jagoe; Land Services Coordinator and Diane Sander; Land Services & Parks Specialist.

Chair Greene called the meeting to order and led the assembly in the Pledge of Allegiance. The roll call of Board members was then taken. Board members present: Chair Doug Greene, John Sutcliffe, Becky Strand, Chip Yeager and Gregg Carlson. A quorum was established with members present.

Coordinator Jagoe provided an overview of the electronic meeting format, review of muted microphones, speaking order, how to “raise hand” icon on computer or \*9 by listening by phone, with Chair Greene leading and following the meeting order and procedures.

**APPROVAL OF AGENDA** – Motion to approve the amended agenda with the addition of 3 – Public Hearing Comments and Additional Narrative from Kenneth and Kathleen Ryberg by John Sutcliffe. Second by Becky Strand. Motion carried unanimously.

**APPROVAL OF MINUTES** – Chip Yeager identified a minor correction. Our request is not setting ~~presentence~~  
precedence due to... Motion to approve the corrected May 28, 2020 meeting minutes by Gregg Carlson. Second by Chip Yeager. Motion carried unanimously.

**ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD** – Motion by Chip Yeager to adopt all applications, submittals, reports and other materials into the record by reference. Second by Becky Strand. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: Staff Reports with Attachments, Additional Narrative from Kenneth and Kathleen Ryberg, 1 – Public Hearing Comment for Ryberg PID#06.00493.00, 1 – Public Hearing Comment for Skalsky PID#09.00356.01, and 1 – Public Hearing Comment for Reilly PID#06.00917.00. Staff Reports had been distributed in advance to the Board and the applicants for their review. Copies of all correspondence and meeting materials were made available for electronic distribution.

## **PUBLIC HEARING**

**Kenneth & Kathleen Ryberg** – Mr. and Mrs. Ryberg were present at the hearing to request to build a 10x16 ft accessory building. The property is located on 50410 Bayside Avenue, Nessel Township; Sec. 22, T. 37, R. 22 (PID# 06.00493.00). Coordinator Jagoe presented background information on the Ryberg application. The parcel is a 0.92 acre lakeshore lot on West Rush Lake and zoned Rural Residential 1 (RRI). The accessory building would not be closer to the Ordinary High Waterlevel (OHW). Total proposed accessory floor area is 608 sq ft and would meet code. Nessel Township recommended approval with no conditions on June 9, 2020. Technical review was held on June 9, 2020 and staff indicated no other identified impacts. Staff did provide other locations where a 10x16 ft shed could be located. Alternate locations on the property could meet setback requirements allowed by code. Mr. and Mrs. Ryberg provided an additional narrative that modified the shed size and reduced it to 10x14 ft, which would comply with the 10 ft septic setback and 5 ft side yard setback. Ryberg’s discussed their concerns on the alternative locations that included access to the septic tank, utilities and shared driveway with neighbor.

Mr. and Mrs. Ryberg were available to address questions and concerns. Gregg Carlson inquired about the design of the door and type of flooring for the building.

Submitted Public Correspondence:

*David and Polly Mitchell* – 50474 Bayside Avenue, They are next door neighbors and they have no issues with the shed.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Ryberg variance. With no additional person wishing to speak, ***motion*** by Gregg Carlson to closed the public hearing. Second by John Sutcliffe and carried unanimously. Each board member was asked for additional questions and comments. ***Motion*** by Gregg Carlson to approve a 10x14 ft detached accessory building closer to the lake that maintains the existing rear building line of 43 feet from OHW on a substandard lake lot for Kenneth and Kathleen Ryberg, at 50410 Bayside Avenue (PID #06.00493.00), subject to the condition that the detached accessory building must maintain a 10 foot setback from the septic system and 5 foot setback from the side yard. Motion is based on findings of fact, staff report, amended site plan and narrative of record as presented. Second by Chip Yeager. Roll call vote was held and motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful location that maintains the existing rear building line on the non-conforming property and maintains a reasonable use of the property within this zoning district.

**Brenda & Richard Marohn** – Mr. and Mrs. Marohn were present at the hearing to request to improve a nonconforming seasonal cabin to a year round residence. The property is located at 11977 Wilcox Road, Sunrise Township; Sec. 8, T. 35, R. 20 (PID# 09.00083.00). Coordinator Jagoe presented background information on the Marohn application. The parcel is 2.68 acres and located in the Sunrise River Overlay District and zoned Agriculture. The proposal is to convert the seasonal cabin to a year-round dwelling. The proposed plans will not enlarge the building footprint and will add the addition of a well and septic system. Interior utilities will be added and exterior renovation includes new roof, windows and siding. Sunrise Township recommended approval with no conditions on June 18, 2020. Technical Review was held on June 9, 2020 with the recommendation of frost proofing the existing foundation.

Mr. and Mrs. Marohn were available to address questions and concerns. Brief discussion followed on the cabin's location and the opportunity to tear down the existing cabin to relocate and build a larger dwelling. Mrs. Marohn indicated the cabin was built in the 1970's and for sentimental reasons they decided to keep the same footprint. No public correspondence had been submitted. Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Marohn variance. With no additional person wishing to speak, ***motion*** by Becky Strand to closed the public hearing. Second by Gregg Carlson and carried unanimously. Each board member was asked for additional questions and comments. Chair Greene had concern with what happens in the future when the homeowners want to expand the structure and that they've made improvements to the structure in its current location. He does not want to set a precedence that future variances will be issued for this location because the homeowner does not consider alternate locations on the property now. Mr. Marohn understood the review of one variance request. ***Motion*** by Gregg Carlson to approve the improvement of a nonconforming seasonal cabin to a year-round dwelling that does not increase the building footprint for Brenda and Richard Marohn, at 11977 Wilcox Road (PID #09.00083.00) with a condition that frost proofing of the existing foundation occur in a manner compliant with Section 4.02.A.c and applicable building codes. Motion is based on findings of fact, staff report, site plan and narrative of record as presented. Second by John Sutcliffe. Roll call vote was held and motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion of the non-conforming structure in order to maintain a reasonable use of the property within this zoning district.

**Sheri Skalsky** – Ms. Skalsky was present at the hearing to request to intensify the foundation of a nonconforming barn that is located closer to the road than the required setback. The property is located at 36687 Kost Trail, Sunrise Township; Sec. 31, T. 35, R. 20 (PID# 09.00356.01). Coordinator Jagoe presented background information on the Skalsky application. The five acre lot of Kost River View Plat is located within the Sunrise River Overlay District. The plat was approved in 2004 with 8 conditions, one of the conditions was the existing barn would either need to be moved or need a variance due to preexisting development that did not meet setback requirements. A building permit was not obtained and the new barn foundation increased the overall height. The Building Official did authorize lowering the barn onto a new foundation for structural and safety concerns. The new block foundation and increased height are expansion of a nonconforming structure. Sunrise Township recommended approval and requested a refund since the Township deemed a variance was not needed on June 18, 2020. Technical Review identified no other conflicts and a denial of the variance would be inconsistent with past practices. Chair Greene asked each board member for comments and questions.

Ms. Skalsky was available to address questions and concerns. Ms. Skalsky asked for clarification on the plat conditions. Coordinator Jagoe provided plat history and a detailed explanation of activities that prompt a building permit for a nonconforming structure. Ms. Skalsky indicated the barn was over 100 years old and this effort will help preserve the barn.

Submitted Public Correspondence:

*Lynda Lyttle* – 36771 Kost Trail, Next door neighbor and has no issues with intensifying the foundation of the barn. It should help keep the barn in good condition.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Skalsky variance. With no additional person wishing to speak, ***motion*** by Chip Yeager to closed the public hearing. Second by Gregg Carlson and carried unanimously. Each board member was asked for additional questions and comments. Gregg Carlson had questions on the increased height of the foundation and if the barn was going to be used for commercial use. Ms. Skalsky indicated the foundation was raised a few inches and will only be used for private storage. Chip Yeager asked if the County Engineer had any concerns. Coordinator Jagoe reported no concerns were listed. ***Motion*** by Gregg Carlson to approve a variance to intensify the foundation of a nonconforming barn that is located closer to the road than the required setback is hereby approved for Sheri Skalsky, at 36687 Kost Trail (PID #09.00356.01). Motion is based on findings of fact, staff report, site plan and narrative of record as presented. Second by Becky Strand. Roll call vote was held and motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion of the non-conforming structure in order to maintain structural integrity.

4. The practical difficulty is a desire to keep the maximum setback from the Sunrise Reservoir, and the desire to avoid having to cut a significant area of mature trees for a new building site in order to reduce encroachment or meet setback requirements.

**Ronnie & Pamela Miller** – Mr. and Mrs. Miller request a variance to be allowed to construct a single family residential house closer to the road than the required setback. The property is located xxx Rush Lake Road, Nessel Township; Sec. 19, T. 37, R. 21 (PID# 06.01188.23). Coordinator Jagoe presented background information on the Miller application. Parcel size is 1.47 acres, zoned RRI within the Shoreland District. The parcel is part of the 1988 approved Nessel's Estates Plat. Building pad was 25x70 ft as shown on the Certificate of Survey and the proposed house plans identified an additional 12 ft deck off the rear of the home. With the deck it exceeds the width of building pad as provided in application requesting a variance setback of 115 ft from centerline of the road. The board was directed to review the setback request based on the narrative statement and site plan provided in the application. Nessel Township approved the request with no conditions on June 9, 2020. Technical Review was held and County Highway Department did not have any concerns with the front setback.

The applicants and their builder Joshua Fedder were not present to address questions and concerns. Coordinator Jagoe reported the proposed house plans were provided after the application materials had been submitted. No public correspondence had been submitted. Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Miller variance. With no additional person wishing to speak, ***motion*** by Chip Yeager to close the public hearing. Second by Becky Strand and carried unanimously. Each board member was asked for additional questions and comments. Board members discussed the parcel location and the best buildable area on the lot. Board members discussed the OHW setback with the applicants request and proposed design of the house with deck. It was noted Mr. and Mrs. Miller would need to modify the house design to include a deck if the variance was approved. Chair Greene added the deck could be reduced in size or omitted to meet the setback. ***Motion*** by John Sutcliffe to approve to construct a single family residential house with a front setback of 115 feet from centerline of Rush Lake Road for Ronnie and Pamela Miller, at XXX Rush Lake Road (PID# 06.01188.23). Motion is based on findings of fact, staff report, site plan and narrative of record as presented. Second by Gregg Carlson. Roll call vote was held and motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals when it is deemed pre-existing development.
3. The Variance as presented by the Applicant has illustrated a reasonable home design that maintains the Shoreland setback in order to construct a single family dwelling which is a permitted use of the property within this zoning district.

**Richard Eitel** – Mr. Eitel was present at the hearing to request to build a detached accessory building closer to the road than the required setback. The property is located on 30015 Glader Boulevard, Chisago Lake Township; Sec. 34, T. 34, R. 20 (PID# 02.01730.00). Coordinator Jagoe presented background information on the Eitel application. Lot size is .20 acre, zoned Urban Residential (UR) within the Shoreland District. The parcel is part of the 1947 approved Sunset Point Plat located on South Center Lake. The lot is approximately 60 ft wide by 140-153 ft long, a typical substandard lake lot. Current shed will be removed with no other attached or detached accessory buildings. Impervious surface is at 20%, maximum impervious surface allowed is 25%. The structure was determined nonconforming due to a preexisting development and does not meet the required rear yard setback in the Shoreland District. The proposed site plan was displayed and indicated a one foot additional encroachment. Chisago Lake Township recommended approval with no

conditions on June 16, 2020. Technical Review was held on June 9, 2020 and no other identified impacts and is not aware of identifiable impacts to nearby properties. Chair Greene asked each board member for comments and questions.

Mr. Eitel was available to address questions and concerns. He indicated the building will be in line with the neighbor. No public correspondence had been submitted. Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Eitel variance. With no additional person wishing to speak, ***motion*** by Gregg Carlson to close the public hearing. Second by John Sutcliffe and carried unanimously. Each board member was asked for additional questions and comments. Gregg Carlson asked staff if there was any concerns with the garage being as big as the cabin on the property. Coordinator Jagoe reported the floor area allowed is based off of lot size, not dwelling size. Chip Yeager commented the accessory structure size compared to dwelling size would be a good topic for the Planning Commission to review. ***Motion*** by Gregg Carlson to approve to build a detached accessory building up to 10 feet from the front property line on a nonconforming lake lot is hereby approved for Richard Eitel, at 30015 Glader Boulevard (PID #02.01730.00). Motion is based on findings of fact, staff report, site plan and narrative of record as presented. Second by Becky Strand. Roll call vote was held and motion carried unanimously.

#### Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
3. The Variance as presented by the Applicant has demonstrated the least impactful design for an expansion of the non-conforming property in order to maintain a reasonable use of the property within this zoning district.

**Gary & Debra Reilly** – Mr. Reilly was present at the hearing to request to add a 12x24 ft addition and 10x15 ft deck onto the house closer to the lake than the required setback. The property is located on 49715 North Alpine Avenue, Nessel Township; Sec. 28, T. 37, R. 22 (PID# 06.00917.00). Coordinator Jagoe presented background information on the Reilly application. The parcel is 0.45 acre and located on West Rush Lake, a general development waterbody. The area is zoned RRI and is part of the 1963 approved Indian Point Subdivision. The proposed addition is 20% of the lots impervious surface. Nessel Township recommended approval with no conditions on June 9, 2020. Technical Review identified no other conflicts and a denial of the variance would be inconsistent with past practices. Chair Greene asked each board member for comments and questions. Mr. Reilly was available to address questions and concerns. Mr. Reilly indicated his plans did not obstruct any view of the lake and other lake properties are closer to the lake than his proposal. The plans of the addition had been modified and no longer include the lower living room level. Mr. Reilly has been working with the County Sanitarian.

#### Submitted Public Correspondence:

*Marian Lunceford* – 49725 Alpine Avenue North, Opposed to the addition and deck closer to the lake. Previous owners obtained a variance to build the house on the substandard lake lot. A 75 ft setback from OHW was given; however, the house was built only 69-70 ft from the OHW and the contractor added an additional three layers of block to the foundation. The higher house level changed the natural water drainage and caused drainage issues onto my property. Mr. Reilly added a driveway along the house to the lake which could increase drainage issues. I would not disrupt other neighbor's views. The variance was denied in 2010 and should be denied now.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Reilly variance. *Darin Lunceford and Marian Lunceford* were present. Mr. Lunceford provided a brief overview

of the previous owner and how the house was moved closer to the OHW and raised after the Building Inspector had left the building site. The change in construction has caused drainage issues. Visually, all the houses are in line. Our family has had a dispute of the road being installed along the property line. Mr. Lunceford supported denying the variance. *Deb Marlton* was present and supported her families concerns and denial of the requested variance.

Coordinator Jagoe reported she had the Code Enforcement Officer conducted a field inspection to verifying setbacks as shown on site plan provided. The Code Enforcement Officer concurred with the distances shown. The applicant will have to maintain the 64 ft setback. If approved, the Building Official will make sure the applicant does not encroach beyond the 64 ft setback as part of permitting and construction process or apply for another variance. Land Service staff will be reviewing the installed road. With no additional person wishing to speak, ***motion*** by Gregg Carlson to close the public hearing. Second by Chip Yeager and carried unanimously. Each board member was asked for additional questions and comments. Gregg Carlson asked for clarification of the 2010 minutes and inquired about the support of the addition and deck. Mr. Reilly commented there is a cement slab already there and the addition and deck will use posts for support. Becky Strand asked for clarification on the deck size on the site plan and impervious surface calculation. Chair Greene indicated a survey marker needs to be located for measuring the setback, if a marker cannot be found, then a survey will be required to maintain the correct setback measurement. ***Motion*** by John Sutcliffe to approve the variance to build an addition with no lower level/living room closer to the lake up to a 66 ft setback and a deck up to 64 ft setback from OHW on a substandard lake lot is hereby approved for Gary and Debra Reilly, at 49715 Alpine Avenue N. (PID# 06.00917.00), subject to the condition a survey marker is found or require a survey to establish setback measurement. Based on findings of fact, staff report, site plan and narrative of record presented, and as verbally amended by applicant with no lower level on the addition. Second by Chip Yeager. Roll call vote was held and motion carried unanimously.

#### Findings of Fact:

1. The Variance request is not created by the Landowner and is due to pre-existing development.
2. The Variance does not change the character of the neighborhood and is consistent with previous approvals for expansion of a nonconforming structure in the Shoreland District.
3. The Variance as presented by the Applicant has demonstrated the least impactful location that is feasible and maintains a reasonable use of the property within this zoning district.

The board discussed the next meeting and the possibility of it being held at the Government Center. Coordinator Jagoe reviewed safety protocols similar to County Board meetings to accommodate an in-person meeting.

John Sutcliff moved to adjourn. Second by Chip Yeager. Roll call vote was held and motion carried unanimously. With no further business the meeting was adjourned at 8:35 p.m.