

**CHISAGO COUNTY
BOARD OF ADJUSTMENT
OFFICIAL PROCEEDINGS
August 27, 2020**

The Chisago County Board of Adjustment met in regular session at 7:00 p.m. on Thursday, August 27, 2020 in the County Room 150B of the Government Center.

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.

APPROVAL OF AGENDA – Coordinator Jagoe reported the Mike and Kateri Osbeck variance request at PID# 06.01065.00 had been tabled. Motion to approve the amended agenda with the addition of five public comments by Becky Strand. Second by John Sutcliffe. Motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the July 30, 2020 meeting minutes by Gregg Carlson. Second by Chip Yeager. Motion carried unanimously.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD – Motion by Becky Strand to adopt all applications, submittals, reports and other materials into the record by reference. Second by Gregg Carlson. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: Staff Reports with attachments, three public hearing comments for LeTourneau PID#02.00069.00 and two public hearing comments for Morrison PID#02.01025.00. 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

Dennis Frandsen – Jim Ertz, on behalf of Dennis Frandsen, Property Owner, was present at the hearing to request a variance to build a single-family residential dwelling closer to a County and Township Road than the required setback. The property is located at xxx Rush Lake, Nessel Township; Sec. 14, T. 37, R. 22 (PID# 06.01172.00). Coordinator Jagoe presented background information on the Frandsen application. The parcel is part of the Lois Acres plat from 1976. Lot 1 is 0.95 acre with road frontage on three sides of the property, and is zoned Rural Residential I (RRI) with a Shoreland Overlay on the east side of East Rush Lake. This is the former site of “Peterson’s Campground or Rush Lake Resort”. The house proposed will have a private well, connected to Shorewood Park Sanitary Sewer District with a driveway access off of Rush Lake Way. The request for the variance is to have the house located closer in proximity to the residence of Mr. Frandsen which will be developed on a lot to the north. Coordinator Jagoe displayed the site plan identifying a building envelope with a variance and without a variance location on the plan. The request has not demonstrated a practical difficulty which encumbers meeting the Chisago County ordinance requirements. Nessel Township recommended approval with no conditions on August 11, 2020. Technical review was held on August 12, 2020 and County Highway indicated setbacks standards are typically first considered on a Township Road over a County Road. The 90 ft. setback would be sufficient and closest distance that would be supported to perform maintenance operations safely.

Jim Ertz reviewed the uniqueness of the lot and thought process behind the proposed location of the house. Mr. Ertz provided pictures and reviewed neighborhood properties and the cemetery not meeting setbacks. Rush Lake Way has different and unique aspects, if the variance was denied, the applicant would consider requesting a zoning amendment. The parcel is from a 1970’s plat, which should have some allowances on setbacks. Chip Yeager indicated the parcel is large enough to have the proposed house location adjusted to

the south end without a need for a variance. Lengthy discussion followed on setbacks, right of way of Rush Lake Way, and lack of township interest of vacating. Coordinator Jagoe emphasized the difference of legal nonconforming structures with preexisting setbacks compared to new construction and the ability to meet setbacks. If a legal nonconforming structure was torn down, the landowner has 180 days to replace the exact same structure. The structure could not be expanded or upgraded with amenities if the original did not have it. Any expansion or upgrade would require a variance request. Chip Yeager indicated he was willing to support moving the proposed house location west on the provided site plan. Gregg Carlson discussed moving the proposed house location closer to Rush Lake Way, which would have a similar setback to a previously approved variance on Rush Lake Way. Discussion continued on adjusting the proposed location and setback on Rush Lake Way. Mr. Ertz discussed shifting the house and reviewed the thought process of requesting just one variance. Coordinator Jagoe indicated the application was a variance request to review the setbacks and the house renderings and floor plans were only a concept plan. If a proposed garage would be more than the maximum square footage of an accessory storage floor area in the RRI Zoning District, a separate variance request would be needed. Mr. Ertz questioned if the concept plan for the house could be enlarged and garage reduced in size to reduce the need for the second variance. Coordinator Jagoe indicated yes the garage size would need to be reduced to comply with the ordinance in order to proceed without a variance. Chair Greene indicated if the board was interested in approving the variance that specific setbacks should be identified in the motion. Becky Strand stated she would abstain from the Frandsen variance request.

Chair Greene sought public comment, no one was present to testify in the matter. With no additional person wishing to speak, **motion** by Gregg Carlson to closed the public hearing. Second by Chip Yeager and carried unanimously. Each board member was asked for additional questions and comments. Board members discussed the driveway location. Coordinator Jagoe indicated the driveway would be accessed from Rush Lake Way and not from County Road 1/Rush Lake Trail. **Motion** by Chip Yeager to deny the request based on staff report and the following Findings of Fact: application proposed is not consistent with zoning regulations and Comprehensive plan, has not met the threshold for practical difficulty, and has not demonstrated an inability to comply with the setback regulations that is beyond the control of the landowner. Motion failed without a second. Gregg Carlson continued discussion on moving the proposed house closer to Rush Lake Way. **Motion** by Gregg Carlson to approve the variance request to build a single-family residential dwelling no closer than 14 ft. to the Township Road on the west side only and no closer than 116 ft. to the County Road based on findings of fact, staff report, site plan and narrative of record as presented. Second by John Sutcliffe. Chair Greene indicated to Mr. Ertz when the house is being staked out, if there is an opportunity to move it more south on the parcel it would be a good thing. Motion carried unanimously.

Findings of Fact:

1. The Variance application does not change the character of the neighborhood and is consistent with previous approvals on pre-existing development.
2. The Variance request is not created by the Landowner and is due to pre-existing 1970's development.

Quintin LeTourneau – Mr. LeTourneau was present at the hearing to request a variance to build a second detached 60 x 120 pole building and be allowed more than the maximum square footage of an accessory storage floor area in the RRI Zoning District. The property is located at 12927 288th Street, Chisago Lake Township; Sec. 9, T. 33, R. 20 (PID# 02.00069.00). Coordinator Jagoe presented background information on the LeTourneau application. The parcel is approximately 70 acres, zoned RRI with Shoreland Overlay with a single family dwelling and detached accessory building at the south end of the property. Majority of the property is actively farmed and used for agricultural purposes. Mr. LeTourneau will use the detached accessory structure for agriculture and personal storage. Total proposed accessory ground area is 7,776 sq. ft. which equals .25% of the 70 acre parcel. Chisago Lake Township recommended approval with no conditions on

August 18, 2020. Technical Review was held on August 12, 2020 and determined there were no identified impacts of concerns.

Mr. LeTourneau explained he did not realize the parcel was zoned RRI instead of Agricultural. Gregg Carlson inquired about a purchase agreement. Mr. Letourneau indicated there was a purchase agreement but it will depend on the outcome of the variance.

Submitted Public Correspondence:

Julia Froemke – 28809 Mindy Court, I understand the need for regulations, I also do not feel one size fits all. This is a large piece of property and individual consideration needs to be made for the property and the buildings on it. I am in favor of allowing Mr. LeTourneau to build a pole building.

Mary Adams – 28565 Lakeside Drive, I have no objection to Mr. LeTourneau building his 60 x 120 pole building.

Andy Froemke – 28809 Mindy Court, My wife and I live directly across the street from this property. It has been in the Lelwica family for generations. This request does not seem extraordinary since it is a large tract of land. I am in favor of allowing Mr. LeTourneau to build a pole building.

Chair Greene sought public comment, no one was present to testify in the matter. 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. Discussion was held on the proposed pole building use for personal storage only and not to be used for commercial or home occupation purposes. It was determined the pole building would be used for personal use and if Mr. LeTourneau was interested in pursuing a home occupation, he would need to apply for a conditional use permit. ***Motion*** by Gregg Carlson to approve the variance to build a second detached 60 x 120 pole building and be allowed more than the maximum square footage of accessory storage floor area in the RRI Zoning District based on the site plan and narrative of record as provided and conditioned upon “future subdivision of the property must occur in a manner for which the parent parcel remain no less than the minimum lot size in the Agricultural (AG) District in effect at the time of development or the parent property be brought into compliance with the regulations for Accessory Structures in the RRI District at the time of development” and the following Findings of Fact. Second by Chip Yeager. Motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is consistent with previous approvals on larger tracts of land that fall within the residential zoning, but are comparable to the AG District in size and use.
2. The Variance falls within the allowance for number of detached accessory structures and will be required to be designed to meet the architectural requirements for residential districts.
3. The Variance as presented by the Applicant is determined to be a reasonable request and use of the parcel given the size of the lot.

Jeff and Chayla Starr – Mr. and Mrs. Starr were present at the hearing to request a variance to exceed the 25% maximum impervious surface coverage as allowed in the RRI Zoning District with Shoreland Overlay. The property is located at 29895 Glader Boulevard, Chisago Lake Township; Sec. 3, T. 33, R. 20 (PID# 02.01748.21). Coordinator Jagoe presented background information on the Starr’s application. The lot is 0.37 acres, zoned Urban Residential (UR) with Shoreland Overlay. The lot is approximately 69 ft. wide at the road and approximately 225 ft. to South Center Lake. This is Lot 7 of Sunset Point East Plat, approved in 1997 (replatted from original 1947 Sunset Point Plat). Without the proposed accessory building, the parcel exceeds the impervious surface coverage at 29%. The Shoreland Ordinance states not to exceed 25% impervious surface coverage. Coordinator Jagoe indicated the preexisting development with driveway and patio area are a large

portion of the improvements that cause the property to exceed the impervious surface coverage. The applicants are within the allowed number of detached accessory structures, and within the allowed accessory floor area. Any future expansion of any type will continue to trigger a variance request. Chisago Lake Township recommended approval with no conditions on August 18, 2020. Technical Review was held on August 12, 2020 and determined there were no identified impacts of concerns.

Mr. Starr explained the proposed picture of the shed would include a barn style roof, slightly different than the displayed picture. Chair Greene opened the public hearing.

John and Kathleen Hartman – 29885 Glader Blvd, We are concerned how close the shed will be to the property line and runoff from the shed onto our property. Our properties are pretty steep and water runs to the lake pretty fast. We have a concern the fence that was installed was not on the property line.

Chair Greene indicated the shed will need to be located 5 ft. from the side property line which is the required setback and the gable style roof design will allow water runoff onto Starr's property and not onto Mr. Hartman's property. Mrs. Starr indicated the shed will be installed on rock instead of concrete and a rain barrel could be installed on the backside of the shed to help minimize water runoff. Mr. Starr indicated conflicting information from the 1997 and 1947 plats for the correct property lines. Mr. Starr indicated if there are issues with the fence, he will work with Mr. Hartman for the correct location. Coordinator Jagoe indicated the side yard setbacks are 10 ft. for a house and attached garage, and 5 ft. for a non-agricultural detached structure. The Applicants have not requested a variance from setbacks. If the property corners cannot be identified for the building permit, a survey could be required to assure the setbacks are met.

Chair Greene sought public comment, no one was present to testify in the matter. With no additional person wishing to speak, ***motion*** by John Sutcliffe to closed the public hearing. Second by Chip Yeager and carried unanimously. Each board member was asked for additional questions and comments.

Motion by John Sutcliffe to approve the variance to exceed the 25% maximum impervious surface coverage up to 30% at 29895 Glader Boulevard based on the staff report, findings of fact, site plan and narrative of record as presented. Second by Chip Yeager. Motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is determined to be consistent with pre-existing development and topography.
2. The Variance does not change the character of the neighborhood and falls within the allowance for accessory structures in the UR District.
3. The Variance as presented by the Applicant is determined to be a reasonable request to maintaining an efficient use of the parcel.

Richard and Bonnie Colleen Kargel – Mr. Kargel was present at the hearing to request a variance to build an addition onto an existing detached accessory building closer to the rear yard setback. The property is located at 12150 244th Street, Chisago Lake Township; Sec. 32, T. 33, R. 20 (PID# 02.01790.80). Coordinator Jagoe presented background information on the Kargel application. The parcel is 7.5 acres, zoned AG with surrounding area with a mixture of dwellings and agricultural uses. The parcel is situated between Lendt Lake and Third Lake. Driveway is located off of 244th Street, which is a corner lot. The abutting streets adhere to front yard setbacks. The north and east side comply with rear yard setbacks. Mr. Kargel provided two site plan options. Option #1 was preferred by the owner with an addition extending off the north side of the existing pole barn. The back of the building would have a setback up to 24 ft. from the rear property line. Option #2 is an addition extending of the east side of the pole barn. The building setback would be up to 42.5 ft. from the rear property line. Chisago Lake Township recommended approval with the recommendation for

Option #2, expansion to east side of building on August 18, 2020. Technical Review was held on August 12, 2020 and had no identified impacts of concerns.

Mr. Kargel explained he preferred Option #1 since it would provide more square footage for storage and ease for unloading hay for the horses. Mr. Kargel did indicate it might be cost prohibitive to go off the north side and may have to go with the east side addition. Gregg Carlson discussed the feasibility of the wall height. Board members discussed the two different options with the irregular parcel shape and woodland area. Chair Greene opened the public hearing.

Sherry Stirling – 12400 316th Street, Chisago Lake Township Chair and indicated the Township Board reviewed the request from a structural standpoint. It would be a large addition off the north side and wondered about the structural load and building code.

Chair Greene identified no one else was present to testify in the matter. 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. ***Motion*** by Becky Strand to approve the variance to build either addition, based on feasibility onto an existing detached accessory building, but no closer than 24 ft. from the rear yard setback at 12150 244th Street. Motion is based on the staff report, findings of fact, site plan and narrative of record as presented. Second by Gregg Carlson. Motion carried unanimously.

Findings of Fact:

1. The Variance request is not created by the Landowner and is determined to be consistent with pre-existing development and topography.
2. The Variance does not change the character of the neighborhood and falls within the allowance for accessory structures in the AG District.
3. The Variance as presented by the Applicant is determined to be a reasonable request to maintaining an efficient use of the parcel.

Robert and Trena Morrison – Mr. and Mrs. Morrison were present at the hearing to request two variances. The first variance is to build a detached accessory building closer to the road than the required setback. The second variance to allow the height of the accessory structure to exceed the height of the principal structure. The property is located at 12498 Melody Lane, Chisago Lake Township; Sec. 4, T. 33, R. 20 (PID# 02.01025.00). Coordinator Jagoe presented background information on the Morrison application. The parcel is 0.40 acre, zoned RRI with Shoreland Overlay. This is Lot 2 of Bethel Grove Addition Plat, approved in 1917. The parcel is located on South Lindstrom Lake and the lot is 80 ft. wide at the road and approximately 210 ft. to the lake. The parcel has a 952 sq. ft. cabin with 168 sq. ft. detached shed. Septic system is located on the lake side/rear yard. Coordinator Jagoe indicated preexisting developments limits options for future expansion and development. Site plan displayed a proposed 32 x 26 garage with storage loft on one side. Chisago Lake Township recommended approval with no conditions on August 18, 2020. Technical Review was held on August 12, 2020 and determined there were no identified impacts of concerns.

Mr. Morrison explained they had downsized for their retirement home. Purchased the house in April, which is more like a cabin. We do not plan on expanding the house, but considering remodeling by adding a loft with vaulted ceilings to appear more spacious. Mr. Morrison explained the needed access to the lakeside septic system and limited building options with concerns on removing the maple tree.

Submitted Public Correspondence:

Scott DeGross – 12494 Melody Lane, My wife and I have concerns with the garage being built if the required 5 ft. setback from the property line. Our property has been in the family for years with many beautiful large

maple trees on our property. We are now down to one. We have discussed our concerns with Mr. and Mrs. Morrison, which they have graciously tried to keep their proposed garage as far as possible from our tree to minimize damage to the roots and branches.

Chester and Margaret Boike – 12500 Melody Lane, We have no objections to the Morrison’s building closer to the road or having a garage taller than their existing dwelling. Their proposed location of the garage was well thought out for a number of valid reason. They are preserving mature hardwood trees growing in their yard and neighbors property on the west side. These trees are valued by all of us and we would hate to lose them.

Chair Greene identified no one else was present to testify in the matter. 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. Gregg Carlson inquired about the trees on the east side of the property and noted the loft area in the garage would be for unfinished storage only, not for future living space. Chair Greene commented the proposed location was well thought out.

Variance #1

Motion by Chip Yeager to approve the variance to build a detached accessory building up to 13 feet from the front property line on a nonconforming lake lot at 12498 Melody Lane, based staff report, findings of fact, site plan and narrative of record as presented. Second by Becky Strand. 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.

Variance #2

Motion by Becky Strand to approve the variance to build a detached accessory building taller than the existing dwelling at 12498 Melody Lane, based staff report, findings of fact, site plan and narrative of record as presented. Second by Gregg Carlson. 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.

John Sutcliffe moved to adjourn. Second by Becky Strand and motion carried unanimously. With no further business the meeting was adjourned at 9:00 p.m.