

**CHISAGO COUNTY**  
**BOARD OF ADJUSTMENT**  
**OFFICIAL PROCEEDINGS**  
**September 24, 2020 - DRAFT**

The Chisago County Board of Adjustment met in regular session at 7:00 p.m. on Thursday, September 24, 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, Becky Strand, Chip Yeager and Gregg Carlson. Excused Absence: John Sutcliffe. A quorum was established with members present.

**APPROVAL OF AGENDA** – Motion to approve the agenda by Becky Strand. Second by Chip Yeager. Motion carried unanimously.

**APPROVAL OF MINUTES** – Motion to approve the amended August 27, 2020 meeting minutes with minor edit by Gregg Carlson. “...and no closer than ~~114~~ 116 ft. to the County Road...” Second by Becky Strand. Motion carried unanimously.

**ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD** – Motion by Gregg Carlson to adopt all applications, submittals, reports and other materials into the record by reference. Second by Chip Yeager. Motion carried unanimously. Meeting materials distributed in advance to the Board of Adjustment and Appeals for their review included: Staff Reports with attachments. 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**

**Mike and Kateri Osbeck** – Mr. and Mrs. Osbeck were present at the hearing to request a variance to build a single-family residential dwelling closer to the road than the required setback. The property is located at 51360 Berry Avenue, Nessel Township; Sec. 15, T. 37, R. 22 (PID# 06.01065.00). Coordinator Jagoe presented background information on the Osbeck’s application. The parcel is part of the First Addition Labelle Isle plat from 1962. Lot is zoned Rural Residential I (RRI) with a Shoreland Overlay on the east side of West Rush Lake. The Osbeck’s purchased the adjacent undeveloped Lot 10, with the intention to demolish the existing seasonal cabin and detached accessory building and rebuild a new single-family dwelling with attached garage in a new location on the combined parcel. The house plans were modified to meet required setbacks for the septic system. Nessel Township reviewed the revised plans and recommended approval of a front yard setback of 27.5 feet on September 8, 2020. Technical review was held on August 12, 2002 and had no other identified impacts.

Mr. Osbeck explained the plan was changed to accommodate the septic system setback. Gregg Carlson asked for clarification on the applicant’s narrative submittal and township review of septic. Coordinator Jagoe indicated the township does not review the septic design, but the township did approve the overall revised design.

Chair Greene sought public comment, no one 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 Chip Yeager to approve the variance request to build a single-family residential dwelling and encroach up to 27.5 feet from the required front yard setback at 51360 Berry Avenue. Motion is based on findings of fact, revised staff report, revised site plan and narrative of record as presented subject to the condition the Applicants shall

meet the requirements of the Chisago County Subsurface Sewage Treatment Systems Ordinance 10-1 and that the location of the septic system including the width and length of the absorption area be staked and fenced off until construction of the mound has commenced and Staff has verified compliance with setbacks. 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.

**Robert and Diane Graska** – Mr. Graska were present at the hearing to request a variance to build a detached accessory building closer to the lake than the required setback. The property is located at 49692 North Alpine Ave, Nessel Township; Sec. 28, T. 37, R. 22 (PID# 06.00913.00). Coordinator Jagoe presented background information on the Graska’s application. The parcel is .65 acres, zoned RRI with Shoreland Overlay on the SW side of West Rush Lake. The property is part of the Indian Point plat approved in 1968. There was a 16x14 detached accessory structure that was damaged due to a storm, which met the 75 ft. lake setback. The applicants are looking to replace the accessory building with a new 24x30 detached structure with 59 ft. setback from the lake. Nessel Township recommended approval with no conditions on September 8, 2020. Technical Review was held on September 10, 2020. Comments were received from Craig Wills, Area Hydrologist from the Minnesota Department of Natural Resources (DNR). Mr. Wills stated that in his review of the application, the practical difficulty has not been demonstrated. An alternate location or size of an accessory could be constructed without encroaching into the required setback. It is the opinion of the DNR that the property is conforming and viable options exist for replacement beyond expanding towards the lake. Their office is understanding of replacing and/or expanding the structure, but would not support encroachment into the setback from OHW. There were no other identified impacts of concerns.

Mr. Graska explained the existing building was destroyed by a tornado. Mr. Graska asked for clarification on demonstrating practical difficulty. Coordinator Jagoe explained a different orientation of the new accessory building could be accommodated in other locations on the property. Mr. Graska explained an adjusted layout would look odd on the property. Chair Greene commented the new building could be reduced to 16 ft. to meet the setback. Mr. Graska indicated the old building was not adequate and was limited on storage. Chair Greene commented he felt the new building was too large for the proposed location. A second option would be a different location on the property. The proposed building is rather large compared to your neighbors and some proposals just do not fit. Discussion followed on shoreland erosion and foundation for the new building. Gregg Carlson questioned Mr. Graska on the size of the new building and proposed alternative layouts. Mr. Graska indicated the lot configuration could be considered a practical difficulty. Coordinator Jagoe stated the size of the proposed building is the contributing factor of not meeting setbacks. Gregg Carlson inquired if any neighbors had opposed the project. Coordinator Jagoe reported she did not receive any public comments. Chip Yeager commented the Board of Adjustment reviews proposals on nonconforming lake lots, there is an opportunity of compromise on a different size building or adjusted layout. Discussion followed on OHW and water levels on Rush Lake. Coordinator Jagoe indicated this lot has a greater depth than most lake lots, but is still considered substandard with today’s standards. Discussion followed on different building sizes, layout options, and construction standards to meet building code.

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 Becky Strand and carried

unanimously. Each board member was asked for additional questions and comments. **Motion** by Gregg Carlson to approve the variance to build a detached accessory building closer to the lake up to 70 feet from OHW on a substandard lake lot at 49692 Alpine Avenue N., (PID #06.00913.00), subject to the condition that the detached accessory building must maintain a 5 foot setback from the side yard. Motion is based on the staff report as presented with 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 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 platted development.
3. The Variance as presented by the Applicant has demonstrated the least impactful location that maintains a reasonable use of the property for construction of a second detached structure within the total accessory floor area as allowed under Section 4.08.2 within this zoning district.

Chip Yeager moved to adjourn. Second by Becky Strand and motion carried unanimously. With no further business the meeting was adjourned at 7:52 p.m.