

**MINUTES OF THE MEETING  
OF THE  
OTTER TAIL COUNTY BOARD OF ADJUSTMENT  
Thursday, September 13, 2018**

The Otter Tail County Board of Adjustment met Thursday, September 13, 2018, with the following persons in attendance:

Doug Larson	Thomas Lee	Darren Newville
Jack Rosenthal	Steve Schierer	Kenneth Vorderbruggen
Chris LeClair, Land and Resource Management – Director		
Kyle Westergard, Land and Resource Management – Assistant Director		
Michelle Eldien, County Attorney		

**Called to Order – Steve Schierer, Chair called the meeting of the Board of Adjustment to order at 6:30 p.m.**

**Minutes Approved** - The Board of Adjustment approved the minutes of the August 9, 2018 meeting as mailed.

**The Board of Adjustment considered the following applications for variance:**

**Richard A. Phelps – Variance application approved with conditions. (6:32 p.m.)**

Richard A. Phelps, part of Government Lot 6, Section 3 of Nidaros Township by Stuart Lake, requested the following: Replacement of existing structure 20' from ordinary high-water level with identical structure in same location as described in Site and Lot Application. Remove 20.5' by 22' existing structure with roof sloping toward lake. Replace structure with steeper pitched roof for snow removal and change slope direction 90 degrees so as to slope away from lake. Current height of structure and roof is 11'. Replace with roof and structure total height of 18.5'. Structure is located 80' and 100' from lot lines. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Thomas Lee made a motion, seconded by Kenneth Vorderbruggen to approve the variance application as requested. The motion to approve failed with Doug Larson, Darren Newville and Jack Rosenthal voting no. Those voting against the motion to approve were concerned with establishing precedence. After additional consideration and discussion, Darren Newville made a motion, seconded by Jack Rosenthal and unanimously carried, to approve the replacement of a 20.5' by 22' existing structure, which is located 20' from the ordinary high-water level with a new 20.5' by 22' structure in the same location with the condition that the height of the sidewalls on the new structure cannot be any taller than the sidewalls on the existing structure and with the condition that the roof must have a 4 - 12 pitch. The variance as approved will provide reasonable use. It was noted that the new structure will direct runoff from the roof away from the lake. Hardship/practical difficulty is an older structure in need of maintenance. The variance as approved does not directly or indirectly grant any other variances for the proposed development or for any future development.

**MaryJane and Don Westra – Variance application approved as requested. (6:47 p.m.)**

MaryJane and Don Westra, Lots 21 and 22 Okeson Beach, Eagle Lake in Eagle Lake Township, requested a variance to replace the existing 12'x16' storage shed/fence area with a 12'x16' outdoor kitchen. The proposed outdoor kitchen will be 6' from the lot line at the closest point (east corner). Requesting a 4' variance, required setback is 10'. The proposed outdoor kitchen will be approximately 50.5' from the ordinary high-water level. Required setback is 75', requesting a 24.5' variance. Currently, the existing impervious surface in the shore impact zone (SIZ) is 416 square feet. By rotating the proposed outdoor kitchen will remove the existing structure from the shore impact zone and reduce the shore impact zone coverage by 24 square feet bringing down the coverage to 392 square feet. Asking for a 132 square foot variance. Per Shoreland Management Ordinance the impervious surface coverage in the shore impact zone shall not exceed 260 square feet. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Kenneth Vorderbruggen made a motion, seconded by Darren Newville and carried with Thomas Lee and Steve Schierer voting no, to approve a variance of 4' from the required side lot line setback of 10', a variance of 24.5' from the required ordinary high-water level setback of 75' and a variance of 132 square feet from maximum allowable impervious surface coverage in the shore impact zone of 260 square feet for the placement of 12' by 16' outdoor kitchen 6' from the lot line and 50.5' from the ordinary high-water level. The proposed outdoor kitchen will replace an existing 12' by 16' storage shed, will be further back from the ordinary high-water level than the existing storage shed and will result in less impervious surface coverage within the shore impact zone. Those voting against the motion to approve noted that there is adequate room to meet the required setbacks. The variances as approved do not directly or indirectly grant any other variances for the proposed development or for any future development.

**Yvonne Nordick – Variance application approved with conditions. (6:55 p.m.)**

Yvonne Nordick, Lot 9 Peach's Silent Lake Beach, East Silent Lake in Dora Township, requested the following: In the summer of 2016 I had screen installed to connect the existing deck with the existing roof and constructed an 8' x 10.5' storage shed onsite. Requesting a variance for the storage shed which was placed 4' from the lot line and Approximately 56' from the ordinary high-level. Required setback is 10' to the Lot Line and 100' to the ordinary high-water level. The shed was placed in-line with the existing shed. Requesting a Variance for the screen porch being approximately 25' from the ordinary high water-level. Required setback is 100' from ordinary high-water level. Currently the existing Impervious Surface Calculation in the Shore Impact Zone (SIZ) is 994.5 square feet. Asking for a 734.5 square feet variance for impervious surface in the shore impact zone. The maximum allowable is 260 square feet of impervious surface coverage in the shore impact zone. Pete Larson appeared with the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. A letter/email from Sonja Kosler in opposition to the variances as requested was read for the record. An email from Jean Johnson opposing the variances are requested was read for the record. After consideration and discussion, Thomas Lee made a motion, seconded by Jack Rosenthal and unanimously carried, to approve a variance of 75' from the required ordinary high water level setback of 100' for the placement of a screen porch 25' from the ordinary high water level, a variance of 734.5 square feet from the maximum allowable impervious surface coverage within the shore impact zone of 260 square feet for total impervious surface coverage within the shore impact zone of 994.5 square feet and a variance of 44' from the required ordinary high water level setback of 100' for the placement of an 8' by 10.5' storage shed 56' from the ordinary high water level and at least 10' from the side lot line with the applicant's verbal agreement to move the 7.5' by 10' metal shed, which is to the east of the new 8' by 10.5' shed 10' from the side lot line. It was noted that if the older existing 7.5' by 10' metal shed's condition is such that it cannot be moved without being significantly destroyed then the applicant can replace that older shed with a new 7.5' by 10' shed; however, it must be placed 10' from the side lot line. The variances as approved to do directly or indirectly grant any other variances for future development.

**James Simpson – Variance application approved as requested. (7:10 p.m.)**

James Simpson, Lots 1 and 2 Squire's Addition, Rush Lake in Rush Lake Township, requested the following: I have two contiguous lots (Section 13 Township 135 Range 039, Lot 1 Block 1 and Lot 2 Block 1 of Squires Addition), not on Rush Lake but within 1000 feet of Rush Lake. Lot 1 contains a residence and a storage building and is 21,000 square feet. Lot 2 is vacant and is 23,000 square feet. I wish to sell Lot 2 but retain a 15 ft strip along the west side to be permanently attached to Lot 1. Therefore Lot 1 would have 23,800 square feet and Lot 2 would be 20,100 square feet. The buyer has three contiguous lots on Rush Lake (Sec 13 Township 135 Range 039 Lots 3 and 4 of Oak Grove Beach parcel number 53000990306000 and Lot 5 of Oak Grove Beach parcel number 53000990307000) totaling 32,000 square feet. Lot 2 as modified above, would be permanently attached to riparian lots 3,4 and 5 Oak Grove Beach, Lot 2 Squires Addition would be for Non-Residential Use. My remaining Lot 1 Squires Addition as modified above to remain as a buildable residential lot. David Simpson appeared with the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Darren Newville made a motion seconded by Doug Larson and unanimously carried, to approve the variance as described in the variance application dated August 13, 2018 and as depicted on the drawings submitted with the variance application. It was noted that variance as approved does not increase the number of building sites on the lake. The variance as approved does not directly or indirectly grant any other variances for future development.

**Eric Spilde – Variance application approved as requested. (7:15 p.m.)**

Eric Spilde, Lots 4 and 5 West Loon Lake Beach , Loon Lake in Dora Township, requested the following: Existing cabin was built in 1972 and would like to remove and build a new home on the lot that is larger than existing with expansion to the back and side and make two stories. Existing deck structure is 35 feet from ordinary high-water level, existing cabin is at 45 feet from ordinary high-water level at the closest point which does not meet the 100-foot setback requirement. Due to lot shape and size, existing garage at the back of the lot, septic design and lot drainage for neighbors, cannot meet the 100-foot setback from the ordinary high-water level with a new structure. We request a variance that would move the building back farther than existing, moving out of the shoreland impact zone with the patio starting at 50 feet from the ordinary high-water level at its closet point and the cabin starting at 60 feet at its closest point from the ordinary high-water level. Rhonda Spilde appeared with the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Darren Newville made a motion, seconded by Kenneth Vorderbruggen and unanimously carried, to approve a variance of 50' from the required ordinary high water level setback of 100' for the placement of the proposed development as described in the variance application dated August 16, 2018 and as depicted on the drawing labeled "Proposed" being no closer to the ordinary high water level than 50'. Hardship/practical difficulty is a substandard lot of record. The proposed development will be outside of the shore impact zone. The development as proposed is an improvement over the existing development and is like use to other properties within this immediate area. The variance as approved does not directly or indirectly grant any other variance for the proposed development or for any future development.

**David Ross – Variance application approved as requested. (7:18 p.m.)**

David Ross, Lot 9 Block 1 Hutmacher's Addition to Klein and Adam Point, Marion Lake in Dead Lake Township, requested the following: Goal is to build a single-family dwelling and detached garage on a back lot that sits on the west side of South Marion Drive near Marion Lake. The back lot is currently wooded and undeveloped. Hardship/practical difficulty is a substandard lot where the width and square footage of the lot is less than what the ordinance requires. Ultimately, we are requesting the lot to be declared buildable for residential purposes. The building plans we develop will conform to all other requirements stated in the Otter Tail County Shoreland Management Ordinance. Steve Ross represented the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Steve Schierer made a motion, seconded by Thomas Lee and unanimously carried, to declare Lot 9 Block 1 of Hutmacher's Addition to Klein and Adam Point a buildable lot for residential purposes as requested in the variance application dated August 6, 2018. The variance as approved will allow the property owner to enjoy the same rights and privileges as others in this immediate area. The variance as approved does not directly or indirectly grant any other variances for future development.

**Paul and Mary Grindeland – Variance application approved as requested. (7:26 p.m.)**

Paul and Mary Grindeland, part of Lots 22 and 23 Rose Lake Beach in Hobart Township, requested a variance of 20' from the required ordinary high-water level setback of 100' for placement of an 8' by 8' shed approximately 80' from the ordinary high-water level. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Thomas Lee made a motion, seconded by Darren Newville and unanimously carried, to approve a variance of 20' from the required ordinary high-water level setback of 100' for the placement of an 8' by 8' shed approximately 80' from the ordinary high water-level as depicted on the drawing submitted with the variance application. Hardship/practical difficulty is a substandard lot of record. It was also noted that the proposed location will not restrict the view from the adjacent properties. The variance as approved does not directly or indirectly grant any other variances for the proposed development or for any future development.

**Rick and Carol Frovarp – Variance application approved as requested. (7:30 p.m.)**

Rick and Carol Frovarp, Lot 16 Silent Point, West Silent Lake in Dora Township, requested a 62' variance for setback of structure to be 38' from the ordinary high-water mark. Required is 100'. We are requesting a 15' variance for a road right-of-way setback of 5'. We are requesting a 5' variance for the lot line setback. The audience was polled with no one speaking for or against the variance as requested. The applicants' contractor (Roger) was also in attendance. After consideration and discussion, Darren Newville made a motion, seconded by Jack Rosenthal and unanimously carried, to approve a variance of 62' from the required ordinary high water-level mark, a variance of 5' from the required lot line setback of 10' and a variance of 15' from the required road right-of-way setback of 20' for the placement of the proposed development as described in the variance application dated July 18, 2018 and as depicted on the drawing submitted with the application 38' from the ordinary high water level, 5' from the lot line and 5' from the road right-of-way. Hardship/practical difficulty is the unique shape of the applicants' property. The variances as approved will provide the applicant with a reasonable use of their property. The proposed development is an improvement to the property. The variances as approved do not directly or indirectly grant any other variances for the proposed development or for any future development.

**Charles and Polly Ann Grell – Variance application approved with a modification and conditions. (7:35 p.m.)**

Charles and Polly Ann Grell, part of Government Lot 4, Section 34 of Girard Township by West Battle Lake, requested the following: We propose to vary from current ordinance to create and sell a buildable lot on 200' by 100' (unrecorded plat of Vern Villa Beach Lots 7 and 8; parcel R 29000340233004). Attach remainder (unrecorded plat of Vern Villa Beach Lots 5 and 6; parcel R 29000340233003) to our parcel R 29000340233000) which has physical address of 22896 Treetop Road, Henning. The parcel to be considered single family lot. The lot is 20,000 square feet. We do meet frontage requirements. Required is 40,000 square feet. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Jack Rosenthal made a motion, seconded by Darren Newville and carried with Steve Schierer voting no, to approve the variance as described in the variance application dated August 6, 2018 with the following conditions: 1) Parcel R 29000340233004 must be increased in size from 200' by 100' to 225' by 100' (this would be a buildable Lot), 2) Parcel R 29000340233003 must be reduce in size from 200' by 100' to 175' by 100', 3) Parcel R 29000340233003 (175' by 100') must be permanently attached to Parcel R 29000340233000 and 4) a registered surveyor's drawing must be provided. The variance as approved does not directly or indirectly grant any other variances for future development.

**Jennifer Wulfekuhle - Withdrawn**

Jennifer Wulfekuhle, part of Lot 3 and all of Lot 4 Segar Beach, Otter Tail Lake in Everts Township, requested the following: Proposing to replace the existing dwelling being 59’ from the ordinary high-water level. Requesting a 16’ variance from ordinary high-water level, required setback is 75. Prior to the September 13, 2018 Board of Adjustment meeting, the Land and Resource Department (Kyle Westergard) was informed by the applicant that she no longer required a variance and that she was withdrawing her request.

**Diane McRae – Variance application approved with a condition. (7:48 p.m.)**

Diane McRae, Lot 3 Longview First Addition, Long Lake in Hobart Township, requested a variance to place new cabin 13’ from road right-of-way at closest point and holding tank in the road right-of-way. County Highway Department has been out to mark road right-of-way. The applicant was represented by her daughter and son in-law. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Steve Schierer made a motion, seconded by Thomas Lee and unanimously carried, to approve a variance of 7’ from the required road right-of-way setback of 20’ for the placement of a new dwelling 13’ from the road right-of-way and to approve a variance to place the holding tank in the road right-of-way with the condition and verbal agreement of the applicant’s representatives that an existing 7’ by 12’ shed must be placed at least 10’ from the lot line. The variances as approved do not directly or indirectly grant any other variances for the proposed development or for any future development.

**Char and Mike Solberg – Variance application approved as requested. (7:52 p.m.)**

Char and Mike Solberg, Lots 28 and 29 Block 1 Haugen’s Point, Pelican Lake in Dunn Township, requested a variance to subdivide Lot 29 and permanently attach a portion to Lot 28. As part of the variance, we are requesting that the remaining portion of Lot 29 to be allocated for residential use of the existing cabin on the lot. Due to the existing substantial topography and density of mature trees on Lot 28, to build a structure would require significant excavation as well as tearing down most of the mature trees. By subdividing Lot 29 and permanently attaching a portion to Lot 28 it would allow for a structure that would not disturb the existing landscape features. In addition, this variance would allow for Lot 29 to retain the character and use of two of the existing buildings on the site. We also request to modify the impervious surface area within the shore impact zone on Lot 29 to reallocate the existing paved surfaces for a new patio adjacent to the existing cabin. This will be an overall decrease of impervious surface area for Lot 29 from 2561 Square Feet to 1721 Square Feet. Proposing to create an access easement within shore impact zone of Lot 28 to access Lot 29. If this variance is granted a final survey will be filed to establish the parameters listed above. See attached for supplemental information. Chris Hawley, Architect, represented the applicants at the public hearing. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Darren Newville made a motion, seconded by Doug Larson and unanimously carried, to approve the variance as requested in the application dated August 22, 2018 and as depicted in the drawings submitted with the variance application. Hardship/practical difficulty is the topography and terrain features of the property. The proposed development is an improvement over the existing development. Mr. Hawley also discussed with the Board a couple of features that would not be included when an existing structure (building on the point) is reconstructed. For example – a chimney. The Board did not express any concerns that the reconstructed structure would not be exactly the same size and shape as the existing structure noting that the proposed changes were immaterial reductions to the existing structure. The variances as approved do not directly or indirectly grant any other variances for the proposed development or for any future development.

## **Administrative Appeal Hearing –**

**Jeanne K. Johnson - Decision in Favor of Appellant (8:00 p.m.)**

The parcel concerned in this appeal is Parcel 37-000-23-0116-005 and is a 1.55-acre parcel in the Southeast Quarter of the Southeast Quarter, Section 23 Lida Township. The property address is 42185 San Dee Cove Trail – 56587. Appearing on behalf of the appellant were the following:

**Jeanne Johnson**  
**Richard Johnson**  
**Applicant’s Project Coordinator - Kevin**  
**Carl E. Malmstrom, Attorney**

The appellant is appealing the following -

By letters (on file) dated August 27, 2018, Jeanne K. Johnson, the appellant, appeals to the Otter Tail County Board of Adjustment the administrative determination of the County's Land and Resource Management staff that Jeanne K. Johnson violated the Shoreland Management Ordinance of Otter Tail County, Minnesota Pursuant to Minnesota Statutes Chapter 394 and Section 103F.201 through 103F.221. The nature of the violation as stated in the violation letter (on file) dated August 17, 2018 is the following:

"Fence and pavers on the road, not legally located and not permitted. (SMO 4.A & 8.B.7). Must remove by September 17, 2018."

The appeal hearing was recorded as a part of the September 13, 2018 Board of Adjustment meeting and will be made available to the appellant and the public during normal business hours; therefore, secretary's minutes will be very brief. Mr. Malmstrom, Attorney noted that the appeal is taken for the following reasons:

1. The Notice of Violation refers to questionable references and lacks clarity as to the specific violation and specific portion of the ordinance being violated,
2. The requirement to remove the fence and pavers, and
3. Previous conversation with the office regarding the need for a permit.

Mr. Malmstrom presented several pictures and drawings to address the following:

1. the location of the private driveway,
2. the location of the public road,
3. the obstructions currently located in the public road right-of-way.
4. the area being used for ingress and egress,
5. the property owned by the appellant,
6. the project area noting that the project is on the appellant property and not within the public road right-of way,
7. the placement of pavers and their location,
8. the temporary work fence, which will come down when the project is finished, and
9. noted that the intent of the project was to protect their property and to prevent continued road drift.

Mr. Malmstrom indicated that his client intended to create no issues for the other property owners in the neighborhood and speculated (should property owners in this immediate area request) that in the future an easement might be provided to the property owners in this immediate neighborhood so that they have legal right to the area currently being used for ingress and egress. Mr. Malmstrom noted that the project was intended to protect the appellants property and to eliminate any further encroachment onto her property.

The Land and Resource Department noted that the violation was issued in response to a complaint. There was discussion regarding the location of the road, the 20' structure setback from public roads, a 1997 survey, lot alteration permit and the nature of the appellant's project.

After additional general discussion and consideration, Steve Schierer made a motion, seconded by Jack Rosenthal and unanimously carried, to find in favor of the appellant contingent upon the appellant applying for and obtaining a lot alteration permit. The members of the Board of Adjustment found that the fence was not a vision obstructing fence and that the project (placement of pavers and fence) as completed was on the appellant's property and not within the public road right-of-way; therefore, the appellant does not need to remove the temporary work fence or the pavers that have been placed and can continue with their project upon obtaining the required lot alteration permit.

With no further business, Steve Schierer, Chairman declared the meeting adjourned at 8:40 p.m.

Prepared by:

Wayne Stein, Secretary

The minutes were mailed on Monday, September 17, 2018, to the Otter Tail County Board of Adjustment. Official action regarding these minutes will be taken by the Board of Adjustment at their next regularly scheduled meeting.