

**MINUTES OF THE MEETING
OF THE
OTTER TAIL COUNTY BOARD OF ADJUSTMENT
Thursday, August 8, 2019**

The Otter Tail County Board of Adjustment met Thursday, August 8, 2019, with the following persons in attendance:

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| Brent Frazier | Douglas Larson | Steve Schierer |
| Darren Newville | Kenneth Vorderbrugen | Thomas Lee |

Chris LeClair, Director, Land & Resource Management
Ben Olson, Assistant County Attorney

Called to Order – Steve Schierer, Chairman 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 July 11, 2019 meeting.

The Board of Adjustment considered the following application(s) for variance:

Eric & Lois Fischbach – Variance Application Approved as Requested with a Condition (6:35 p.m.)

Eric & Lois Fischbach, Pt GL 5 Lying Between New Trunk Hwy #210 & Township Road (.71 Acres), Wall Lake in Aurdal Township, requested the following: Variance requested to change the requirement from 40,000 sq. ft. to 30,492 sq. ft. to allow building a 44' x 56' pole structure. Request parcel to be considered buildable for non-residential use.

Eric & Lois Fischbach represented the application. The audience was polled with no one speaking for or against the variance as requested.

After consideration and discussion, Thomas Lee made a motion, second by Brent Frazier and unanimously carried, to approve the variance as requested to have the parcel be considered buildable for non-residential use with the condition that any structure placed onsite must be a non-dwelling structure and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding have been attached to and incorporated as an official part of the minutes which have been placed on file with the Land & Resource Management Department. It was noted that there will be no sewer and water connected to the proposed non-dwelling and the porch shown on the drawing is a lean-to. The variance as approved does not directly or indirectly grant any other variances for future development.

Sally R. Beisser – Variance Application Denied (6:40 p.m.)

Sally R. Beisser, Lot 10 North Point Beach, West Battle Lake in Girlard Township, requested the following: Site exceeds total impervious surface of 25%. Existing impervious surface is at 26.05%. New proposed addition will go over existing patio and be no closer to lake than existing dwelling. New proposed impervious surface to be 27.04% for an increase of .99%. All other requirements of the ordinance will be met.

Sally & Kim Beisser and Shawn Hanson represented the application. 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 deny the variance as requested as no adequate hardship/practical difficulty unique to the property has been shown that would allow for the granting of the variance as requested and the property owners have the opportunity to bring the property into compliance with the impervious surface requirement by reducing some impervious surface onsite which would provide the applicant with a reasonable use of their property and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted by the board that part of the reason we live on the lakes is because of the beauty of the lake and we want to maintain the water quality of the lake and by reducing the impervious to 25% or less it doesn't impact the water quality of the lake.

Mark & Tamara Kath – Variance Application Approved as Requested (6:48 p.m.)

Mark & Tamara Kath, Pt of GL 2, Big McDonald Lake in Edna Township, requested the following: To replace existing garage with new structure being 3 feet from the lot line (requirement is 10 feet). Requesting to be at 31% impervious surface (existing is at 40%).

Mark & Tamara Kath represented the application. 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 Kenneth Vorderbruggen and unanimously carried to approve the variance as requested to replace the existing garage with a new structure being 3' from the lot line. The hardship/practical difficulty is the lot size and the wetland located on the backside of the lot and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted that the impervious surface is being reduced from 40% to 31%. The variance as approved does not directly or indirectly grant any other variances for future development.

Sandy & Mark Anderson – Variance Application Approved as Requested (6:53 p.m.)

Sandy & Mark Anderson, Pt of GL 1, Lida Lake in Lida Township, requested the following: We are requesting a variance to be 2'-6" form the lotline for the construction of a second story addition to an existing lake cabin. By adding a second story, we are minimizing additional impact to the property and improving the property's overall appearance. The structure sits 2'-6" from the neighboring property line and is currently non-compliant with the Otter Tail County Shoreland Management Ordinance. Therefore, we would like to request that the project take place outside the 10' lotline setback requirement.

Sandy & Mark Anderson represented the application. 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 Thomas Lee and unanimously carried to approve the variance as requested to add a second story addition to the existing lake cabin being 2'-6" from the lotline and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted that this is an improvement to the structure, will not be increasing the impervious surface coverage and the structure was built in the early 1960's. The variance as approved does not directly or indirectly grant any other variances for future development.

Steven & Carla Wurzer and Michael & Karen Wurzer – Variance Application Approved Option #2 as Requested (6:56 p.m.)

July 11, 2019 Request

Steven & Carla Wurver, Lots 12 & 13 of South Point W BL, West Battle Lake in Girard Township, request the following: Lots 12 and 13 both meet the 66% rule of MN Stat. Sec. 394.36, with the exception of the residence on Lot 12 being 9 feet too close to the lot line shared with Lot 13. Instead of tearing down or moving the residence on Lot 12, applicants propose to move the lot line between Lots 12 and 13 as shown on the attached drawing so that all setback and other requirements are met for both Lots 12 and 13, leaving both Lots 12 and 13 as buildable for single family residential use in compliance with all ordinances and the 66% rule of MN Stat. Sec. 394.36. The variance being sought is to Section I.6.A of the Subdivision Controls Ordinance, which allows for subdivision for attachment not contiguous lots where no residual lot remains. In this case, Lot 13 would remain as a separate buildable lot for single family residential use in compliance with all the setbacks, ordinance, and the 66% rule of MN Stat. Sec. 394.36.

The application was represented by Michael Wurzer. The audience was polled with no one speaking for or against the variance as requested. A letter from John Lindner in support of the variance request was read for the record and Paula Lang submitted a letter in opposition to the variance request which was read for the record as well.

After consideration and discussion, Chris LeClair, Administrator, Land & Resource Management made a recommendation to the Board of Adjustment to table to allow Ben Olson, County Attorney to do more research to make sure the applicant is requesting a variance from the proper ordinance as well as to allow the applicant to contact a septic designer to determine if a type I septic system can be placed on Lots 12 & 13. Thomas Lee made a motion, seconded by Darren Newville and unanimously carried to table with verbal permission of the applicant at this public hearing until August 8, 2019 Board of Adjustment hearing to allow the applicant to have soil testing done on Lots 12 & 13 to verify that a type I septic system can be placed on each lot.

Steven & Carla Wurzer and Michael & Karen Wurzer – Continued

August 8, 2019 Amended Request

Steven & Carla Wurver, Lots 12 & 13 of South Point W BL, West Battle Lake in Girard Township, request the following: Amendment to Variance Application by Steven and Carla Wurzer and Michael and Karen Wurzer regarding Lots 12 and 13 on Southpoint of West Battle Lake, Section 31, Township 133, Range 39. The property address is 22359 Ferncliff Road, Clitherall, MN, 56524.

- As an alternative to the currently tabled variance application, Applicants request a variance to the 10 foot setback requirement of Section III.4 of the Shoreland Management Ordinance for Lot 12 to allow the existing house to remain even though it currently is located approximately 9 inches from the current lot line shared with Lot 13. As a condition of this variance, a maintenance easement will be granted to ensure that the owner of Lot 12 will be able to access and maintain their property without trespassing or needing permission from the owner of Lot 13.
- As another alternative to the currently tabled variance application, Applicants request the lot line adjustment specified in the original application and a variance from the minimum lot size and frontage requirements of Section III.3. of the Shoreland Management Ordinance if the Board determines that the lot line adjustment requested creates new lots that need to comply with existing lots size and frontage requirements rather than the 66% rule of MN Stat. Section 394.36. The lot size and frontages for each lot are specified on the drawing included with the original variance.

For all three alternative requests presented, Applicants will comply with all other ordinances, including setback and septic requirements.

Michael Wurzer represented the application. The audience was polled with no one speaking for or against the variance as requested. A letter was read in support of the variance request from John Lindner.

After consideration and discussion, Darren Newville made a motion, seconded by Brent Frazier and unanimously carried to approve Option #2 as indicated in the amended variance request (email dated July 15, 2019) to allow a lot line adjustment between Lots 12 & 13 of South Point W BL as depicted on the drawing submitted with the original variance application dated June 20, 2019 which will allow the dwelling structure on Lot 12 of South Point W BL to meet the 10' lot line setback. Both Lots 12 & 13 of South Point W BL are considered buildable for single family residential use and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. The variance as approved does not directly or indirectly grant any other variances for future development.

Anne Alzheimer and Carla & Chris Berger – Variance Application Approved Option B as Requested (7:10 p.m.)

Anne Alzheimer and Carla & Chris Berger, Lot 4 of Beauty Beach, Otter Tail Lake in Amor Township, requested the following: We are requesting a variance from the 10' lot line setback ordinance on the western side of our lot. We would like to replace the existing deteriorating structure on the lot with a new cabin. New structure would be moved back to the 75' OHWL and put in-line with cabins on either side. We will maintain a 10' setback on the east side lot line to preserve the trees and other foliage and are requesting a 3' variance from the 10' setback on the west side of our lot, due to the tapered shape of our narrow lot: 50' lake side down to 44' roadside, in order to fit the 30' x 52' dwelling. The project will also include relocation of the existing shed to be compliant with the 10' lot line setback.

Carla & Chris Berger represented the application. 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 Option B to replace the existing dwelling being 6' from both side lotlines and as indicated in the variance application dated July 12, 2019 as well as depicted on the drawing labeled Option B submitted with the variance application and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. The practical difficulty/hardship is the size and shape of the lot. The variance as approved does not directly or indirectly grant any other variances for future development.

Steve & Pam Hall – Tabled (7:15 p.m.)

Steve & Pam Hall, Parcels 7, 8 & 9 of GL 1, Lida Lake in Lida Township, requested the following: Request to replace 12 x 14 foot deck and stairs on existing patio with 12 x 16 foot deck and stairs on existing patio and screen in area below deck. The original deck does not meet the 75' setback. The proposed deck and screen will be no closer to the OHWL than the existing structure with no change to the current impervious surface (17%).

The audience was polled with no one speaking for or against the variance as requested.

Darren Newville made a motion, seconded by Thomas Lee and unanimously carried to table at the applicant's request (email dated August 5, 2019) until the September 12, 2019 Board of Adjustment meeting.

Firefly Dead Lake, Jade Neilson Properties, LLC – withdrawn (7:15 p.m.)

Firefly Dead Lake, Jade Neilson Properties, LLC, Part of GL 1 & Pt of GL 6, Dead Lake in Dunn Township, request the following: FOR THE PURPOSE OF THIS APPLICATION: A Conditional Use Permit and the revised Preliminary Plat of Common Interest Community No. 84 Firefly Dead Lake, signed and dated June 19, 2019, proposing to convert White Haven Resort into a Common Interest Community Plat of 16 residential dwelling units will assumed to have been recommended for approval by the Otter Tail County Planning Commission with the following conditions which require approval from the Otter Tail County Board of Adjustment. Modular Cabins No. 1-3 will be located 20 feet further back from the lake than existing Cabins No. 1-3 which will be removed and the area revegetated to its natural state, thus offering more protection to the top of the steep bank. Variances of 123, 121 and 118 feet from the 200 foot setback to the closest cabin corner are needed for the approved locations of Modular Cabins No. 1-3. Modular Cabin No. 5 will be located 37 feet further back from the lake than existing Cabin No. 5 which will be removed and the area revegetated to its natural state, thus offering more protection to the top of the steep bank. A variance of 106 feet from the 200 foot setback to the closest cabin corner is needed for the approved location of Modular Cabin No. 5. Modular Cabin No. 6 will be located 31 feet further back from the lake than existing Cabin No. 6 which will be removed and the area revegetated to its natural state, thus offering more protection to the top of the steep bank. A variance of 102 feet from the 200 foot setback to the closest cabin corner is needed for the approved location of Modular Cabin No. 6. Modular Cabin No. 7 will be located 61 feet further back from the lake than existing Cabin No. 7 which will be removed and the area revegetated to its natural state, thus offering more protection to the top of the steep bank. A variance of 99 feet from the 200 foot setback to the closest cabin corner is needed for the approved location of Modular Cabin No. 7. Modular Cabin No. 8 will require a variance of 110 feet from the 200 foot setback to the closest cabin corner is needed for the approved location of Modular Cabin No. 8.

July 11, 2019

An email was received to request that the variance application be tabled to August 8, 2019. A motion by Darren Newville, seconded by Thomas Lee and unanimously carried to table the variance application until August 8, 2019.

August 8, 2019

On July 16, 2019 and email was received from Glenn Howe, Agent for Jade Properties requesting to withdraw their variance application dated June 19, 2019. The request to withdraw their variance application was accepted by general consent of the Board of Adjustment. Motion by Thomas Lee, seconded by Brent Frazier and unanimously carried to withdraw at the applicants request their variance application dated June 19, 2019.

Break – The Board of Adjustment Members to a 15-minute break at 7:15 p.m. and reconvened at 7:30 p.m.

Christopher & Katrina Smaaladen – Variance Application Approved as Requested (7:37 p.m.)

Christopher & Katrina Smaaladen, Rundle Addn, Lot 5 #725 & #19-003 Not to Be Split, Pelican Lake in Scambler Township, requested the following: Requesting a Variance for new structure to be approximately 73'-2" from OHWL. Existing structure is approximately 62' back from OHWL. Requesting a variance of 1'-10".

Christopher & Katrina Smaaladen and Josh (Builder) represented the application. The audience was polled with no one speaking for or against the variance as requested.

Christopher & Katrina Smaaladen -Continued

After consideration and discussion, Steve Schierer made a motion, seconded by Doug Larson to deny the variance as requested as no adequate hardship/practical difficulty unique to the property has been shown that would allow for the granting of the variance as requested. There is plenty of room to enjoy the property with a new dwelling without having to encroach on the lake setback and they can also reduce the size of the screen porch. The motion failed on a tie vote with Brent Frazier, Thomas Lee & Kenneth Vorderbruggen voting against the motion. Upon further discussion, Thomas Lee made a motion, seconded by Brent Frazier and carried with Doug Larson and Steve Schierer voting no to approve the variance as requested with the new structure being 73'-2" from the ordinary high water level as depicted in the variance application and on the drawing submitted with the variance application dated July 17, 2019 and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted that they are moving the structure/new dwelling further from the lake than the existing cabin. The variance as approved does not directly or indirectly grant any other variances for future development.

Thomas & Deborah Bruns – Variance Application Approved as Requested with Conditions (7:53 p.m.)

Thomas & Deborah Bruns, Lot 2 & 3 Blk 1 of Moonlight Bay, Lida Lake in Maplewood Township, requested the following: We request a portion of the absorption field be placed approximately 10 feet into the road right of way to the ditch bottom, but not disturbing the drainage, required setback is 10' from road right of way. Also request a variance for the absorption field to be place 5 feet from the detached garage noting that the detached garage has a guest bedroom in it, required setback is 10' and request that the absorption field be place 1 foot from the property line, required setback is 10'. As well as requesting to place the tank within the bluff impact zone which will be approximately 15' into the bluff, required setback is 30' from the top of the bluff.

Wayne Johnson, Super Septic represented the application. 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 with the conditions that the Maplewood Township's conditions/requirements are followed, and a sign is placed in the septic system location indicating that "Septic System Located Here" and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted that the Land & Resource Management Office has been onsite to verified soils. The variance as approved does not directly or indirectly grant any other variances for future development.

Adam Schwartz & Andrew Cihlar – Variance Application Approved as Requested (8:00 p.m.)

Adam Schwartz & Andrew Cihlar, Lot 1 Blk 2 of Valhalla Estates, East Battle Lake in Nidaros Township, requested the following: Requesting to be 80' from the OHWL, required is 100'. To stay back from wetlands for better site, less fill and dirt work.

Adam Schwartz represented the application. 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 Darren Newville and unanimously carried, to approve a variance to be 80' from the ordinary high water level for the placement of a 20' x 40' cabin as indicated in the variance application and drawing that was submitted with the variance application and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. Hardship/practical difficulty is the wetland onsite and the topography. The variance as approved does not directly or indirectly grant any other variances for future development.

Steven & Evelyn Mulder – Variance Application Approved as Requested (8:05 p.m.)

Steven & Evelyn Mulder, N 40' Lot 3 & All Lot 4 of Hillcrest Beach, Long Lake in Hobart Township, requested the following: Requesting a Variance to add an addition over a portion of existing deck for mechanical room, office & bathroom. Not going any closer to lake than existing dwelling approx. 44' from water. Existing deck being removed is 168 sq. Ft new addition would be 288 sq ft. Additional building sq footage would be 120 SF the addition would have the same roof line as the existing house. (1 story high) Current Impervious surface in the Shore Impact Zone is 777 sq ft there will be no increase to the Shore Impact Zone Impervious Surface. All other requirements of the Ordinance to be met.

Steven & Evelyn Mulder – Continued

Steven & Evelyn Mulder and Darrell (contractor) represented the application. 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 Brent Frazier and unanimously carried to approve the variance as requested in the variance application dated July 18, 2019 along with the drawing submitted with the variance application for an addition being 44' from the ordinary high water level (no closer than the existing structure) and based on the Findings of Fact and Decision Form, which contains the criteria reviewed and the Board's finding has been attached to and incorporated as an official part of the minutes which has been placed on file with the Land & Resource Management Department. It was noted that this is a small improvement to the property. The variance as approved does not directly or indirectly grant any other variances for future development.

Discussion – The Board of Adjustment members discussed changing the meeting time of the Board of Adjustment Meeting to begin at 6:00 p.m. instead of 6:30 p.m. starting with the September 12, 2019 Meeting. All members were in favor.

With no further business, Steve Schierer, Chairman declared the meeting adjourned at 8:15 p.m.

Prepared by:

Amy Busko, Secretary

The minutes were mailed on Thursday, August 15, 2019, 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.