

AGENDA
GREATER BEMIDJI AREA JOINT PLANNING BOARD
317 4th Street NW

Wednesday, September 11, 2019 REGULAR MEETING – 6:00 p.m.

- **Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approval of the Agenda**

A. MINUTES **Chair**
Approval of August 14, 2019 Minutes

B. CONSENT AGENDA
Items in the Consent Agenda are approved with one motion without discussion/debate. The Chairman will ask if any Board member wishes to remove an item. If no items are to be removed, the chairman will then ask for a motion to approve the consent Agenda.

1. Approve/Pay Bills (see attached list of bills) **Chair**

C. VISITORS **Chair**

D. NEW BUSINESS

1. **Northern Township** – **Resolution No. 2019-25** –V-19-31.01379.00–Donald & Diane Jelinek **JC**
2. **City of Bemidji**– V-19-80.00053.01 – Richard Tobey (**60 Day Extension**) **CM**
3. **Northern Township** – **Resolution No. 2019-26** –V-19-31.01886.00–Steven & Cheryl Kroeger **JC**
4. **Northern Township** – **Resolution No. 2019-27** – V-19-31.01216.00 – Matthew & Dina Lee **CM**
5. **Northern Township** – **Resolution No. 2019-28** – V-19-31.01266.00 – Richard & Laura Block **JC**

E. OTHER BUSINESS

1. Residential Parking Standards per ordinance sec 1009 **CM**
2. Storage Container Discussion per ordinance sec 1011 **CM**
3. JPB and City Community Development Surveys **CM**

F. DIRECTOR’S REPORT **CM**

G. UPCOMING MEETINGS **Chair**

1. September 19, 2019 6:00 pm JPC Regular Meeting
2. October 9, 2019 6:00 pm JPB Regular Meeting
3. October 24, 2019 6:00 pm JPC Regular Meeting
4. November 13, 2019 6:00 pm JPB Regular Meeting

H. ADJOURN **Chair**

GREATER BEMIDJI AREA JOINT PLANNING BOARD
Meeting Minutes
September 11, 2019

Pursuant to due call and notice, a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, September 11, 2019, at 6:00 p.m. City Hall. Chair Kelly presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Meehlhause, Kelly, Frenzel, Rivera (alternate)

Members absent: Albrecht, Erickson (utilized alternate)

Staff present: Casey Mai, Jamin Carlson, Terri Ball

Others in attendance: Don and Diane Jelinek, Steve and Cheryl Kroeger, Laura and Rick Block, Matt Murray

Pledge of Allegiance was performed.

AGENDA

Motion by Meehlhause, second by Rivera, to approve the agenda as amended.

Motion carried unanimously.

MINUTES

Motion by Meehlhause, second by Frenzel, to approve the August 14, 2019 minutes as presented.

Motion carried unanimously.

CONSENT AGENDA

- 1) Bills for the total amount of \$20,677.92 were presented for payment.

Motion by Frenzel, second by Meehlhause, to approve consent agenda as presented.

Motion passed unanimously.

VISITORS

NEW BUSINESS

RESOLUTION 2019-25 – V-19-31.01379.00 – Donald & Diane Jelinek

Donald and Diane Jelinek are requesting multiple variances in order to rebuild a new single-family structure on their substandard lot of record located at 4029 Waville Rd NE in Northern Township. This property is within the (R-3) Suburban Residential Sewered Zoning District and Shoreland Overlay. The requested variances are as follows:

1. An additional thirteen and nine-tenths (13.9) percent or one thousand and twenty-eight (1,028) square feet of impervious surface coverage throughout the property per Section 901;
2. A fifty and four/one-hundredths (50.04) foot reduction in lot width from the one-hundred (100) foot wide lot requirement per Section 901;
3. A side yard setback reduction of one and one-tenth (1.1) feet from the north lot line from the required ten (10) foot setback per Section 901;
4. A side yard setback reduction of one and one-tenth (1.1) feet from the south lot line from the required ten (10) foot setback per Section 901; and
5. A rear yard reduction of ten (10) feet from the required twenty (20) foot setback per Section 901.

BACKGROUND

The applicant's representative met with staff for a proposal to redevelop his client's lake lot on Lake Bemidji. This parcel had an approved variance along with MHB certification back in 2008 that was never acted upon and thus, a need for a new variance as the time limits have long expired. The 2008 variance was approved by both the JPB and MHB without all the impervious coverage calculated into the approved variance as only the structure was included in the calculation and not the driveway, sidewalk or patio. The new proposal would decrease the structure width from the 2008 proposal from forty (40) feet down to thirty-three (33) feet. Also, the impervious surface coverage would decrease from roughly 48% down to 38.9% from the previous approved plans, based on the additional impervious coverage not included on the variance. This legal non-conforming lot is currently developed with a legal nonconforming structure. The existing cabin sits approximately forty (40) feet from the ordinary high water level (OHWL) and the new proposed structure would be pushed back to the fifty-five (55) OHWL setback. Additionally, the current cabin has a setback from the south side yard setback of four and seven-tenths (4.7) feet to eight and nine-tenths (8.9) and the north yard setback from five and two-tenths (5.2) feet to eight and nine-tenths (8.9) feet.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the ordinance Section 502 or Section 903, and nothing can be constructed or expanded without a variance.

Existing Conditions

This is an existing substandard lot of record consisting of a seasonal cabin, a detached garage, decks and walkways along with a dirt driveway. The current house is a single-family home along with a detached garage totaling 2,085 square feet of impervious surface coverage.

Proposed Improvements

The proposal would correct some encroachment and setback issues by bringing the new structure closer to conformity. The new proposed home will be pushed back from OHWL and the north side yard lot line and the existing attached garage that currently sits on the neighbor's property and in the right-of-way would be demolished. This proposal would be a benefit to Lake Bemidji and surrounding properties.

Landscaping Requirements

A landscaping plan would need to be submitted if any trees, shrubs, or vegetation would need to be removed within the shoreland protection zone. Erosion control would have to be in place before any construction or demolition begins and remain intact until suitable vegetation is established and in place.

Stormwater Mitigation

Staff would recommend that the applicant install a gutter system on the new structure to direct

stormwater towards a mitigation system such as raingardens, swales, or even a pervious pavement system in lieu of concrete or bituminous surface. This will prevent runoff from entering Lake Bemidji or onto an adjacent property. Applicants have submitted a stormwater mitigation plan showing two (2) underground storage and infiltration catch basins. Total required retention volume for stormwater run-off for this property is eighty-six (86) cubic feet and applicants have proposed a retention volume of one-hundred and eight (108) cubic feet.

Neighborhood Comment

No comments at the writing of the report.

Mississippi Headwaters Board (MHB)

A phone meeting was held with Tim Terrell (MHB Director) and Craig Gaasvig (MHB board member) about the planning case to acquire their feedback.

Both individuals stated that this lot, along with several other lots around Lake Bemidji are difficult to develop or redevelop on due to their small lot sizes and lot widths. Both are in favor of pushing structures and impervious surface coverage away from the OHWL. Updated plans have been submitted and both the MHB representatives stated they could support a project with an impervious surface coverage of around 38% down from the original submitted plans of 46%.

Comprehensive Plan References:

The newly adopted Greater Bemidji Area Comprehensive Plan has identified a few objectives and strategies that supports the variance request and is in keeping with the spirit, purpose and intent of the Plan.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

Natural Resources Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

Strategy #2: Use shoreland restoration incentives and demonstrate success on public and private property to increase natural shoreland. Encourage shoreland restoration projects through incentives or flexibility could potentially reduce shoreland variances. Displaying the benefits of shoreland restoration can increase awareness and understanding of the process that could result in a positive impact on shoreland.

RECOMMENDATION

Staff recommends approval of five (5) variances in order to construct a new single family structure along with a new compliant septic system at 6315 Lavinia Rd NE. The variances are as follows:

1. A reduction of 22,552 square feet in lot size per the Section 901 requirement of 30,000 square feet;
2. An additional thirteen and nine-tenths (13.9) percent or one thousand and twenty-eight (1,028) square feet of impervious surface coverage throughout the property per Section 901;

3. A fifty and four/one-hundredths (50.04) foot reduction in lot width from the one-hundred (100) foot wide lot requirement per Section 901;
4. A side yard setback reduction of one and one/tenth (1.1) feet from the north lot line from the required ten (10) foot setback per Section 901;
5. A side yard setback reduction of one and one/tenth (1.1) feet from the south lot line from the required ten (10) foot setback per Section 901; and
6. A rear yard reduction of ten (10) feet from the required twenty (20) foot setback per Section 901.

Approval recommended with the following findings of fact and conditions:

1. Buildings shall be staked by professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. Applicant shall obtain approval from Northern Township for driveway widening off of Waville Rd. NE.
7. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Board members had the following comments:

- Meehlhause questioned which side of the house the sidewalk and entry door are on. Staff clarified they are on the north side.
- Rivera questioned the size of the patio. Staff explained that the variance from 2008 was for a 108 square foot patio, whereas the current variance is for a 160 square foot patio.
- Frenzel asked the amount of space between the garage and the road. Staff stated 42', which is typical in this area.
- Kelly stated concern about the rear yard setback going from 20' to 10', and about parking in ROW, as well as concern with driveway impeding road maintenance. Kelly commented that the applicants will need to work with the Northern Township Board prior to installation.
- Staff stated that the site plan has already been reduced in size since discussing the project with the MHB.
- Meehlhause questioned JPC's concern with fire response. Staff explained that the distance between buildings will not be 20', on either side yard setbacks.
- Rivera asked if existing trees will be impacted. Staff stated that trees will not be effected, but if they were to be, it has to be included in the site plans.

Motion by Meehlhause, second by Rivera, to approve Resolution 2019-25 for parcel 31.01379.00 with the following conditions:

1. Buildings shall be staked by professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.

3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. Applicant shall obtain approval from Northern Township for driveway widening off of Waville Rd. NE.
7. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing small lot of record that is currently developed, the surrounding area is heavily developed on small substandard lots. Without a variance, the lot could not be improved or further developed.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted and developed small lot of record. No improvements could be made to the residence or redevelopment on this property can be permitted without approval of a variance.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while making improvements. Both the Ordinance as well as the Comprehensive Plan encourage development or redevelopment while preserving or maintaining the character of neighborhoods.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years. The majority of these properties have transitioned from seasonal cabins to year around homes.

Motion carried unanimously.

City of Bemidji – V-19-80.00053.01 – Richard Tobey (60 Day Extension)

Staff summarized the Joint Planning Commission's decision to enact the 60 Day Extension. This case will be presented next at the September 19th JPC meeting. No actions were taken.

RESOLUTION 2019-26 – V-19-31.01886.00 – Steven & Cheryl Kroeger

Steven & Cheryl Kroeger are requesting a variance to build a storage building on a substandard lot of record in the (B-1) Low Density Commercial Zoning District and Shoreland Overlay within Northern Township at 134 Lakewood Dr NW. Per Section 402 of the Ordinance, the minimum lot size for a nonriparian B-1 lot is two (2) acres and currently this lot is 28,590 square feet in area. This parcel is part of the 2020 annexation into the City of Bemidji.

BACKGROUND

The applicants are requesting approval to construct a 2,400 square foot storage building for personal use. The applicants met with JPB staff to discuss options for building on the lot. The lot is currently undeveloped and has a paved access coming off of Lakewood Dr. NW. This parcel was part of a rezone with six (6) other parcels in 2018 to B-1 Low Density Commercial. The new proposal meets all setbacks and impervious surface requirements. Note: as this is a storage building, there are no plans for a well or septic at this time.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the Ordinance, per Sections 502 & 903, and nothing can be constructed without the approval of a variance.

Existing Conditions

This is an existing non-riparian, substandard lot of record within the shoreland overlay. This is currently a vacant undeveloped lot.

Setbacks

The proposed new accessory/storage structure will comply with all setbacks per Sections 402 & 901 of the JPB Ordinance.

Neighborhood Comment

No input was given to the JPB at the time of writing this report.

Comprehensive Plan References:

Vacant

Vacant land use consists of developed lots that do not have a principal building or are developable areas that are not currently developed. Roughly 14.7% of the land in the Greater Bemidji Area is undeveloped or classified as vacant.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

RECOMMENDATION

Staff recommends approval of the variance to construct a new storage building at 134 Lakewood Dr. NE within the shoreland overlay in northern Township, with the following conditions:

1. An erosion control plan shall be submitted and be in place before any construction commences on the property.
2. JPB site verification form and fee shall be submitted prior to construction.
3. A land use permit shall only be issued and obtained after approved certification from the Mississippi Headwaters Board (MHB).
4. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Board members had the following comments:

- Meehlhause asked if this parcel is included in Phase III annexation. Staff affirmed. Meehlhause also questioned if this is a private easement. Discussion concluded that it is private, and not a township road.
- Kelly questioned the need for the variance, and staff explained that this parcel is now zoned B-1 and does not meet the two (2) acre minimum size. Previously it was zoned R-3.

Motion by Frenzel, second by Meehlhause, to approve Resolution 2019-26 for parcel 31.01886.00 with the following conditions:

1. An erosion control plan shall be submitted and be in place before any construction commences on the property.
2. JPB site verification form and fee shall be submitted prior to construction.
3. A land use permit shall only be issued and obtained after approved certification from the Mississippi Headwaters Board (MHB).
4. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. **Has the applicant demonstrated a practical difficulty?**
Yes. This is an existing lot of record that is currently undeveloped. Without a variance, the lot could not be developed.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
Yes. This is a previously platted and developed lot of record. No building of structures can be permitted without approval of a variance.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
Yes. This request is proposing to make use of the property in a reasonable manner while making improvements.
4. **Can the variance be granted without altering the essential character of the surrounding area?**
Yes. Since the proposed variance request is for a storage building, it would fit well within the surrounding area and would not alter the character.

Motion carried unanimously.

RESOLUTION 2019-27 – V-19-31.01216.00 – Matthew and Dina Lee

Matthew and Dina Lee are requesting a variance from Section 1101 of the Ordinance in order to subdivide their parcel of land. This would allow for two additional lots to be created in the (R-3) Suburban Residential Unsewered Zoning District within the Shoreland Overlay in Northern Township, parcel 31.01216.00. A variance is needed for either 1.) The creation of a flag lot for the proposed Parcel B, or 2.) For Parcel B not meeting the minimum lot size of two (2) acres or lot width requirement off two hundred and thirty-three (233) feet in order to have a thirty-three (33) foot wide public access easement.

BACKGROUND

The applicant is requesting to subdivide his lot of record in to three (3) total parcels. The existing lot

is approximately 4.52 acres in size and is located on the east shore of Lake Bemidji within Northern Township. All proposed parcels are projected to be riparian lots that will meet the minimum lot width of one hundred (100) feet and lot size of thirty-thousand (30,000) square feet standards per Section 901 with the Shoreland Ordinance. A variance is needed for the proposed Parcel B as it will either 1.) Create a flag lot, or 2.) Create a private access easement on a property unable to meet the minimum lot size or lot width per Section 1101 of the Zoning Ordinance.

PLANNING CONSIDERATIONS

Existing Conditions

This is an existing riparian standard lot of record with a principal structure, an accessory dwelling unit and an accessory structure all located throughout the property.

In 2016, the existing lot of record was approved a land use permit (permit #: LU-16-53) to construct forty (40) foot by forty (40) foot or one thousand six hundred (1,600) square foot accessory structure on the property. Per Section 601 of the JPB Zoning & Subdivision Ordinance, in order to build an accessory structure in the (R-3) Suburban Residential Zoning District to that size, a minimum lot size of two (2) acres is required. The existing lot of record is proposed to be reconfigured at 2.01 acres in size, meeting the Section 601 requirement.

The existing septic system was installed in 2015 and deemed in compliance at this time. No compliance inspection is required at this time as new septic systems are not required to be inspected for five (5) years from the date of installation. The existing septic system would comply with all setback requirements following the lot division, if approved. This system will only serve the existing property or the Proposed Parcel A, as indicated on the site plan.

Neighboring Property Input

At the time of writing report, no neighborhood concerns were obtained.

Mississippi Headwaters Board (MHB)

Tim Terrill, MHB Executive Director had the following to say about the proposed project and the provided site plan:

MHB standards for a minimum lot size are 30,000 square feet, so if the lot was subdivided, the new lot created would need to meet this standard. If any structure were to be placed on the new lot, than it would have to meet the structure setback of 100 feet and ISTS (septic) setback of 75 feet or be connected to municipal sewer. Lot width at OHWM and at building line would need to be 100 feet.

Comprehensive Plan References

A reasonable use of property is in keeping with the spirit, purpose and intent of the Greater Bemidji Area Comprehensive Plan.

Objective 4.1: Preserve the Quality Residential Neighborhoods

Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.

4. Allow flexibility with site design standards to ensure high-quality development.

Allowing for greater flexibility of zoning ordinances or density requirements for meeting site development criteria, such as increased live landscaping, stormwater retention areas,

active recreation amenities, or park area, can provide a benefit to developers while ensuring a high-quality neighborhood is being designed or redeveloped.

Objective 4.3: Promote Land Use Decisions that Protect the Natural Environment through Smart Growth and Sustainable Practices

When reviewing increases of land uses through subdivisions or large-scale commercial developments, resource conservation measures and sustainable land use practices will be reviewed.

- 1. Promote in-fill development with access to public infrastructure.** *Supporting projects that can use existing public infrastructure as well as increase density and intensification of land use when appropriate can help limit urban sprawl. However, supporting proposals at a density that strain existing public transportation or utilities is not sustainable and can negatively impact the public.*

Objective 8.2 Promote and Encourage Diversity with New Housing Developments

Housing developments that include a diverse amount of housing options can help ensure all residents have housing, diverse housing can and should provide market rate and affordable opportunities.

- 1. Promote a variety of housing options based on market and need.** *It is important to support all forms of housing developments and to promote diversity and choice of housing for all residents. Market rate housing or workforce housing should be promoted based on market trends, affordable or supportive housing should be promoted based on the needs of the community.*

Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

RECOMMENDATION

JPB Staff had difficulties coming to a definitive conclusion on this request as its imperative to use best planning practices in the implementation of the ordinance and to ensure it is in keeping with the spirit, purpose and intent of the of the Comprehensive Plan. It's a goal of the Greater Bemidji Area Comprehensive Plan to promote and encourage in-fill development as well as new housing opportunities, and this would allow an owner to subdivide a portion of their vacant land to be developed on for new single-family homes.

The Joint Planning Commission and the Joint Planning Board need to decide whether or not they support the variance request to subdivide the parcel of land to create two (2) additional lots with one (1) lot being a flag lot or if in opposition of the request and feel best planning practices are not being implemented. If the variance for the creation of a flag lot or the reduction in lot width and lot size is approved, the following conditions are recommended based on the findings of fact:

Recommendations for Approval

Conditions

1. A lot division application shall be submitted for the division of land. A lot division shall not be approved or obtained until the Mississippi Headwaters Board certifies or approves the variance.
2. A land use permit shall be obtained prior to any construction occurring on any of the sites.
3. Prior to any septic being installed on the sites, a septic permit shall be applied for and approved.
4. An erosion control plan shall be submitted and be in place before any construction commences on the properties.
5. The variance shall expire and become void if the lot division and possible recorded easement are not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the recordings are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Findings

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing lot of record. The surrounding area to the north, east and south is all developed land with smaller parcels, similar to what the applicant is seeking. The applicant is seeking an opportunity to divide a portion of his land so it can be developed on for additional housing.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted lot of record; without a variance for the creation of a flag lot or a lot width reduction, this parcel could never be subdivided, creating more than one (1) additional lot.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while still meeting the minimum lot standards per Section 901. Shoreland Regulations of the JPB Zoning & Subdivision Ordinance.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. Since the proposed variance request is to subdivide the parcel for the creation of two (2) additional single family lots, it would fit well within the surrounding area and would not alter the character.

Recommendations for Denial

Findings

1. Has the applicant demonstrated a practical difficulty?

No. Although this is an existing lot of record, the lot currently meets all standards within the Zoning Ordinance. The creation of a flag lot is prohibited except when approved through a PUD/CIC process and/or in accordance with other provisions of this Ordinance.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

No. This is a previously platted lot of record; however, the owner is planning to subdivide the parcel to allow for development on the vacant portion of the lot.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

No. This request is proposing to subdivide a property with the creation of a flag lot or the creation of an easement to access a back lot that doesn't meet the minimum lot width or lot size per Section 1101 of the JPB Zoning & Subdivision Ordinance. This Section of the Ordinance requires a lot to have a minimum of 200 feet in width plus an additional 33feet for a private access easement. Parcel B that is proposed will be 168 feet in width and 1.24 acres in size, which doesn't meet the 233 foot width or the 2 acre minimum.

4. Can the variance be granted without altering the essential character of the surrounding area?

No. The proposed variance request is to subdivide a piece of land for the creation of two additional lots, with one being considered predominately situated behind another lot, which would alter the essential character of the surrounding area as no other flag lots are existing in the vicinity. This could potentially pose as a problem in the future if and when public utilities are ever extended.

Board members had the following comments:

- Frenzel questioned if variances for new homes on these parcels is anticipated. Staff explained the lot dimensions and stated that variances are not anticipated.
- Kelly questioned road accesses after the lots are divided. Staff described Lot A having Pier Street, and Lots B and C each having access off of Waville Road, as well as access off of the ROW that goes to Lake Bemidji.
- Matt Murray stated that applicant has already met with the Northern Township Board, and described Lot A access as a private drive, with private maintenance. Murray stated that driveways are not shared.
- Meehlhause clarified with staff that this case is different from the Tobey case because of the parcel's separate driveways.
- Kelly asked for clarification of the term flag lot. Staff described per ordinance definition. Kelly then questioned end of Pier Street, which staff stated extends to Lot A.

Motion by Meehlhause, second by Frenzel, to approve Resolution 2019-27 for parcel 31.01216.00 with the following conditions:

1. A lot division application shall be submitted for the division of land. A lot division shall not be approved or obtained until the Mississippi Headwaters Board certifies or approves the variance.
2. A land use permit shall be obtained prior to any construction occurring on any of the sites.
3. Prior to any septic being installed on the sites, a septic permit shall be applied for and approved.
4. An erosion control plan shall be submitted and be in place before any construction commences on the properties.
5. The variance shall expire and become void if the lot division and possible recorded easement are not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the recordings are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Findings

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing lot of record. The surrounding area to the north, east and south is all developed land with smaller parcels, similar to what the applicant is seeking. The applicant is seeking an opportunity to divide a portion of his land so it can be developed on for additional housing.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted lot of record; without a variance for the creation of a flag lot or a lot width reduction, this parcel could never be subdivided, creating more than one (1) additional lot.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while still meeting the minimum lot standards per Section 901. Shoreland Regulations of the JPB Zoning & Subdivision Ordinance.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. Since the proposed variance request is to subdivide the parcel for the creation of two (2) additional single family lots, it would fit well within the surrounding area and would not alter the character.

Motion carried unanimously.

RESOLUTION 2019-28 – V-19-31.01266.00 – Richard and Laura Block

Richard and Laura Block are requesting multiple variances in order to rebuild a new single-family structure and to install a new compliant septic system on their substandard lot of record located at 6315 Lavinia Rd NE in Northern Township. This property is within the (R-3) Suburban Residential Unsewered Zoning District and Shoreland Overlay. The requested variances are as follows:

1. A reduction of 15,007 square feet in lot size per Section 901 requirement of 30,000 square feet;
2. An ordinary high water setback reduction of twenty-five (25) feet from the required one-hundred (100) feet per Section 901;
3. An additional five and six-tenths (5.6) percent or eight hundred and forty-two (842) square feet of impervious surface coverage throughout the property per Section 901;
4. A forty-six (46) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
5. A reduction in septic setbacks from the principal structure, the side yard lot line and the public right-of-way per Section 801:
 - a. A four (4) foot reduction from the required ten (10) feet for the septic tank from the principal structure;
 - b. A ten (10) foot reduction from the required twenty (20) feet for the mound system from the principal structure;
 - c. A six (6) foot reduction from the required ten (10) feet for the mound system from the east lot line/public right-of-way; and
 - d. A nine (9) foot reduction from the required ten (10) feet for the mound system from the south side yard lot line.

BACKGROUND

The applicant's representative met with staff for a proposal to redevelop his client's lake lot on Lake Bemidji. The legal non-conforming lot is currently developed with a nonconforming structure that has a failing septic system. The existing cabin sits approximately ninety-one (91) feet from

the ordinary high water level (OHWL). As shown on the site plan, the septic system will be moved to the southeast corner of the lot and the proposed house will be moved closer to the OHWL to make room for the septic. It is also worth noting that the overall impervious will be reduced by four and two-tenths percent (4.2%) or six-hundred and thirty (630) square feet. The applicants plan to build a new home on the property as well as install a new septic system.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the ordinance Section 502 or Section 903, and nothing can be constructed or expanded without a variance.

Existing Conditions

This is an existing substandard lot of record consisting of a house, patios, and walkways along with a brick driveway. The current single-family house is 2,447 square feet.

Proposed Improvements

The proposal would correct some side yard encroachment issues and the failing septic. The new proposed home will be pushed back from the south side yard lot line and the new proposed septic system will be setback approximately one hundred and twenty-five (125) feet from the OHWL. This proposal would be a benefit to Lake Bemidji and surrounding properties.

An alternative option would be to rebuild a new structure in the same footprint of the existing house; however, then the septic system would be installed in closer proximity to Lake Bemidji and would most likely require a variance as the septic would be placed within the seventy-five (75) foot setback from the OHWL.

Septic System

The existing system will need to be removed and a SSTS abandonment reporting form will need to be completed. A SSTS permit will need to be obtained prior to installation and shall comply with Section 801 of the JPB Zoning & Subdivision Ordinance.

Stormwater Mitigation

Staff would recommend that the applicant install a gutter system on the new structure to direct stormwater towards a mitigation system such as raingardens or even a pervious pavement system in lieu of concrete or bituminous surface. This will prevent runoff from entering Lake Bemidji. A stormwater mitigation plan shall be submitted to JPB staff for review and approval prior to land use permit being issued.

Landscaping Requirements

A landscaping plan would need to be submitted if any trees, shrubs, or vegetation are to be removed within the shoreland protection zone. Erosion control would have to be in place before any construction or demolition begins and remain intact until suitable vegetation is established and in place.

Neighborhood Comment

A phone call was received from a neighbor across the road that had concerns about septic system distance from their well. Also, the same individual wanted to know if any of the materials from the house will be reused or given to Habitat for Humanity and if proper steps would be taken for any toxic air born materials getting out into the air or lake during demolition. He stated that he would like to see a fence around the mound system. The same neighbor had sent a letter in objection to the variance proposal as well.

A phone call was received from the neighbor to the south about the proposed septic system distance from their well.

Comprehensive Plan References:

The newly adopted Greater Bemidji Area Comprehensive Plan has identified a few objectives and strategies that supports the variance request and is in keeping with the spirit, purpose and intent of the Plan.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

Natural Resources Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

Strategy #2: Use shoreland restoration incentives and demonstrate success on public and private property to increase natural shoreland. Encourage shoreland restoration projects through incentives or flexibility could potentially reduce shoreland variances. Displaying the benefits of shoreland restoration can increase awareness and understanding of the process that could result in a positive impact on shoreland.

RECOMMENDATION

Staff recommends approval of five (5) variances in order to construct a new single family structure along with a new compliant septic system at 6315 Lavinia Rd NE. The variances are as follows:

1. A reduction of 15,007 square feet in lot size per Section 901 requirement of 30,000 square feet;
2. An ordinary high water setback reduction of twenty-five (25) feet from the required one-hundred (100) feet per Section 901;
3. An additional five and six-tenths (5.6) percent or eight hundred and forty-two (842) square feet of impervious surface coverage throughout the property per Section 901;
4. A forty-six (46) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
5. A reduction in septic setbacks from the principal structure, the side yard lot line and the public right-of-way per Section 801:
 - a. A four (4) foot reduction from the required ten (10) feet for the septic tank from the principal structure;
 - b. A ten (10) foot reduction from the required twenty (20) feet for the mound system from the principal structure;
 - c. A six (6) foot reduction from the required ten (10) feet for the mound system from the east lot line/public right-of-way; and
 - d. A nine (9) foot reduction from the required ten (10) feet for the mound system from the south side yard lot line.

Approval recommended with the following conditions:

1. Buildings shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.

3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. A septic permit shall be obtained prior to installing new system. The existing septic system shall be removed and a SSTS abandonment reporting form shall be completed.
7. Applicant shall obtain approval from Northern Township for driveway widening off of Lavinia Rd. NE.
8. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Board members had the following comments:

- Kelly questioned the ownership of the parcel north of the applicant. Staff explained that the owner is not the applicant, but rather a separate party. Kelly commented that this request is a tough situation because of the small lot size, and issues with the OHW and road setbacks. He stated that there is no room for snow removal and road maintenance.
- Staff summarized conversation with MHB regarding the applicant's failing septic and their preference of granting the variance to have a new septic closer to the OHW rather than a failing septic. Also, staff commented on Lake Bemidji as being classified as a General Development Lake, so the OHW setback for MHB areas is 100', but the OHW setback for non-MHB areas is 75'.
- Kelly stated concern with continually justifying variances from the OHW.
- Rivera stated concern with tree removal, as per the neighbor's letter. Staff explained that land owners do have the right to remove up to 25% of the trees, up to 50% of the shrubs, and stated that removal must be specified on site plans.
- Discussion about road ROW included Kelly, Murray, and Frenzel. The driveway proposal will ultimately come before the Northern Township Board.
- Frenzel commented on the improvements to this lot, but questioned how much should be allowed by the Board. Kelly commented that each case is individual.
- Matt Murray described his efforts creating several designs options, but ultimately presented the design with the least amount of variances and that made the most sense.
- Kelly stated his opinion that the OHW should be maintained per the 100' requirement and has concern about septic damage due to snow removal. Staff described the 12' distance from the edge of the driving surface as a safe amount for machine maneuvering, and suggested applicants install a fence for further protection of the septic.
- Rivera asked if applicants would be flexible and consider more conditions for increasing greenspace. Staff explained that is mostly used in PUD requests, and mitigation is part of condition #3.
- Kelly questioned neighbor's concerns. Staff stated that the neighbor's took their own measurements, which were less accurate. Also, staff noted today that patio brick and other items have been removed by the applicant, from the neighbor's property. Kelly also commented that the Board should question when to stop allowing small cabins to be turned into large year-round homes on these substandard sized lots.

Motion by Meehlhause, second by Frenzel, for the approval of Resolution 2019-28 for five (5) variances on parcel 31.01266.00, with the following conditions:

1. Buildings shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. A septic permit shall be obtained prior to installing new system. The existing septic system shall be removed and a SSTS abandonment reporting form shall be completed.
7. Applicant shall obtain approval from Northern Township for driveway widening off of Lavinia Rd. NE.
8. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing lot of record that is currently developed; the surrounding area is heavily developed on small substandard lots. Without a variance, the lot could not be improved or further developed.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted and developed lot of record. No improvements could be made to the residence or redevelopment on this property can be permitted without approval of a variance, this includes the existing structure and the septic system.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while making improvements on existing nonconformities and improving environmental quality. This proposal will reduce impervious surface and replace the failing septic system along with setting it back away from the OHWL of Lake Bemidji.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years.

Roll call vote:

Ayes: Rivera (alternate), Frenzel, Meehlhause

Nays: Kelly

Absent: Erickson (utilized alternate), Albrecht

Abstention: None

Motion carried.

OTHER BUSINESS

- Staff summarized the committee's process then presented a draft of the revised ordinance for temporary storage containers, a permit application, and a revised Fee Schedule. Board members were in support of the revisions, and directed staff to proceed with the steps necessary to officially approve the ordinance amendment as presented.
- Staff introduced the two (2) surveys completed by the Community Development Director and asked for feedback from the Board. The surveys will be mailed out at the end of the year.

DIRECTOR'S REPORT

Mai described the upcoming planning cases, year-to-date activity count, and the progress of development projects.

- Frenzel questioned progress of hiring an enforcement position, and detailed the reasons supporting it. Staff stated that contracting services will not be an option, as found by recent searches. Kelly suggested requesting a RFP for a part-time position. Rivera suggested hiring a non-licensed person from law enforcement staff. Consensus of the Board to direct staff to prepare a job description and salary range which will be discussed at the November 13th JPB meeting.
- Kelly discussed progress of septic compliance project involving Brent Rud, and thanked JPB staff for work in obtaining information. Northern Township Board is interested in a thorough study.
- Kelly discussed the on-going development project for the Movil Lake public access, and thanked JPB staff for involvement.

UPCOMING MEETING DATES

September 19, 2019	-- JPC Regular Meeting @ 6:00 p.m.
October 9, 2019	-- JPB Regular Meeting @ 6:00 p.m.
October 24 2019	-- JPC Regular Meeting @ 6:00 p.m.
November 13, 2019	-- JPB Regular Meeting @ 6:00 p.m.

ADJOURNMENT

There being no further business, motion by Meehlhause, second by Frenzel, to adjourn the Joint Planning Board meeting at 7:59 p.m.

Motion carried unanimously.

Respectfully submitted,

Terri Ball
Planning Administrative Assistant

JPB Minutes Approved and attested by: Chuchil Kelly
Joint Planning Board Representative

