

**AGENDA**  
**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
317 4<sup>th</sup> Street NW

**Wednesday, October 11, 2017 REGULAR MEETING – 6:00 p.m.**

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

**A. MINUTES** **Chair**  
Approval of September 13, 2017 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**
- 2. Approval of 2018 Budget and Preliminary 2019 Budget **Chair**

**C. VISITORS** **Chair**

**D. NEW BUSINESS**

- 1. City of Bemidji – Resolution No. 2017-32 - V-17-80.00036.00 – Thomas & Ann Allen **CM**
- 2. Northern Township – Resolution No. 2017-33 - IUP-17-31.00888.00 – Patricia Roholt **CB**
- 3. Northern Township – Resolution No. 2017-34 - V-17-31.01479.00– Gary Krohn **CM**
- 4. City of Bemidji – Resolution No. 2017-35 – V-17-80.05820.00 – Joe & Leslie Dukek **CB**
- 5. Northern Township – Resolution No. 2017-36 – V-17-31.01279.00 – Karl & Sheri Peterson **CM**
- 6. City of Bemidji – Ordinance No. 2017-06 – Z-17-80.03331.01 – Chester Berg Toyota **CB**
- 7. City of Bemidji – Resolution No. 2017-31- V-17-80.05735.00, 80.05736.00 – GM Development **CB**

**E. OTHER BUSINESS**

**F. DIRECTOR’S REPORT** **CM**

**G. UPCOMING MEETINGS** **Chair**

- 1. October 26, 2017 6:00 pm JPC Regular Meeting
- 2. November 8, 2017 6:00 pm JPB Regular Meeting
- 3. November 16, 2017 6:00 pm JPC Regular Meeting
- 4. December 13, 2017 6:00 pm JPB Regular Meeting

**H. ADJOURN** **Chair**

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**October 11, 2017**

Pursuant to due call and notice a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, October 11, 2017, at 6:00 p.m. in City Hall. Chair Kelly presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Erickson, Meehlhause, Kelly, Chambers (alternate), Larson (alternate)

Members absent: Albrecht (utilized alternate), Frenzel (utilized alternate)

Staff present: Casey Mai, Cory Boushee, Josh Stearns, Terri Ball

Others in attendance: Daniel P. DeKrey, Connie Ghostley, Donna Dickinson, A.M. (illegible), Jim Ghostley, Ann Austad, Bill & Liz Nichols, Jim Garvey, Gary Krohn, Joe Dukek, Karl & Sheri Peterson, Matt Murray, Kim Hegstrom, (illegible), Wayne Gadberry, Howie Zetah, Mark Dickinson

Pledge of Allegiance was performed.

AGENDA

Motion by Erickson, second by Larson to approve the agenda as presented.

Motion carried unanimously.

MINUTES

Motion by Meehlhause, second by Erickson to approve the September 13, 2017 JPB minutes.

Motion carried unanimously.

CONSENT AGENDA

- 1) Bills for the total amount of \$3,113.36 were presented for payment.
- 2) 2018 Budget and Preliminary 2019 Budget were presented.

Motion by Erickson, second by Chambers to approve consent agenda as presented.

Motion passed unanimously.

VISITORS - None addressed the board.

## NEW BUSINESS

### RESOLUTION NO. 2017-32 -V-17-80.00036.00 – THOMAS & ANN ALLEN

Thomas & Ann Allen are requesting approval of two (2) variances for reductions in the required twenty (20) foot setback from a structure and the required twenty (20) foot setback from a wetland area to replace failing septic mound system located at 3435 Lakeside Drive NE in R-3 Suburban Residential (UNSEWERED) and Shoreland zoning district with in the City of Bemidji.

### **BACKGROUND**

The septic designer evaluated several possible locations and deemed this was the best possible location with the least amount of variances and the best chance of not impacting the nearby wetland or Lake Bemidji. Both the septic tank and the mound system will be installed well beyond the one hundred (100) foot setback from the lake and outside the fifty (50) foot setback from the well. Per the septic designer, the applicant will likely need to construct a retaining wall that surrounds the mound system to avoid any wetland impacts. Therefore the applicant is requesting two (2) variances for the placement of a septic mound system within the required twenty (20) foot setback from any structure and within the twenty (20) foot setback from any wetland. The supporting factor is that we do not want to encourage or entertain any encroachment towards the lake. Lastly staff does not support holding tanks or cesspools on this site or any site along the lake.

### **PLANNING CONSIDERATIONS**

Mr. Larson also noted that presently the laundry is being discharged to the cesspool on site. All plumbing from the house will need to be re-directed so the plumbing flows from the house to the new system. The existing cesspool will be removed.

### Existing Conditions/Alternative Sites

The existing house currently lies on the 100' setback of the Ordinary High Water line, this does not leave much room in the rear yard for alterations or expansion to the existing structures or the septic system. With where the existing structures are placed on the property in proximity to the wetland area, a variance would be needed regardless to replace the existing septic system.

### Development Team (Public Works / Engineer; Building Official; Fire Department)

No concerns were identified by the Development Team.

### Neighborhood Comment

One neighborhood comment was received at the time of writing this report and no concerns.

### Comprehensive Plan References

In regards to the comprehensive plan, the goals of the plan are to protect the safety, health and welfare of the community population and environment. With the proper construction steps for mitigating potential impacts, this request is in keeping with the goals and policies of the comprehensive plan.

### **RECOMMENDATION**

Staff recommends approval of two (2) variances for the replacement of a septic mound system located at 3435 Lakeside Drive NE in R-3 Suburban Residential (UNSEWERED) and Shoreland zoning district within the City of Bemidji. The first variance is a fifteen (15) foot setback from a structure and the second variance is an eighteen (18) foot setback from a wetland area for the placement of the new septic mound system. Approval recommended with the following conditions and findings of fact:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A septic permit shall be obtained prior to installation.
3. All plumbing from the house shall be redirected to the new mound system.

Board members had the following concerns:

- Meehlhause clarified for the public that the consultant named Dave Larson is not the same Dave Larson seated with the JPB.

Motion by Erickson, second by Meehlhause to approve Resolution No. 2017-32 for parcel 80.00036.00 for a variance of a fifteen (15) foot setback from a structure and a variance of an eighteen (18) foot setback from a wetland area for the placement of the new septic mound system with the following conditions:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A septic permit shall be obtained prior to installation.
3. All plumbing from the house shall be redirected to the new mound system.

and findings:

**1. Has the applicant demonstrated a practical difficulty?**

Yes. The existing structures are located on a parcel with a difficulty for suitable locations for the proposed septic system.

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

Yes. The existing accessory and principle structures were constructed on site without planning for future expansion or alterations. A nearby wetland area also hinders the site for future expansion which is unique for this property.

**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. Keeping the septic mound system near the house and not having it to be placed in a wetland is in keeping with the ordinance.

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

Yes. Other suitable locations for the septic tank could be approved but would most likely require additional variances or would alter the character of the surrounding area.

Motion carried unanimously.

**RESOLUTION NO. 2017-33– IUP-17-31.00888.00 – PATRICIA ROHOLT**

Applicant sent email to staff requesting to withdraw case until ownership of property is obtained.

Board members had the following concerns:

- Chambers suggested a moratorium on VRBOs to allow staff time to better study regulations. Staff stated the 2014 ordinance updates provided ground work for vacation rentals, and similar sized cities including Brainerd and Duluth were examples for development of standards for the four (4) IUPs already permitted in the Greater Bemidji Area.
- Chambers commented that some communities in the metro area have reduced the allowance of VRBOs. Staff commented that the Duluth area has loosened their regulations for VRBOs.
- Erickson questioned the length of time necessary for staff to further study regulations, and what span of time Chambers intends for moratorium. Staff suggested one (1) year as a majority of time is committed to completion of the Comprehensive Plan and Ordinance updates.
- Meehlhause stated that VRBOs are currently operating and this is an attempt to monitor their use.
- Kelly urged respect of rights for property owners, while being reasonable with length of time for moratorium.

Motion by Chambers, second by Meehlhause requesting staff prepare a resolution to enact a six (6) month moratorium on Interim Use Permits for VRBOs in the Greater Bemidji Area.

Motion carried unanimously.

**RESOLUTION NO. 2017-34 – V-17-31.01479.00 – GARY KROHN**

Gary Krohn is requesting approval of a variance of thirteen (13) feet from setback of structure to replace failing mound septic system located at 11795 East Movil Lake Road

NE in R-2 Suburban Residential and Shoreland zoning district within Northern Township.

**BACKGROUND:**

The septic designer, Wagner Plumbing and Heating, evaluated the property and determined that it would be best to remove the existing mound system that is failing and replace it with mound system in the same location. This was deemed the best location with the least amount of variances and the best chance of not impacting Lake Movil or a nearby property. The mound system will be installed well beyond the one hundred (100) foot setback from the lake and outside the fifty (50) foot setback from the well. Therefore the applicant is requesting a variance for the placement of a septic mound system within the required twenty (20) foot setback from any building. The supporting factor is that we do not want to encourage or entertain any encroachment towards the lake. Lastly staff does not support holding tanks or cesspools on this site or any site along the lake.

**PLANNING CONSIDERATIONS:**

Existing Conditions/Alternative Sites

The existing house currently lies inside the 100' setback of the Ordinary High Water line, which does not leave much room in the rear yard for alterations or expansion to the existing structures or the septic system. With where the existing house and detached garage are placed on the property in proximity to Lake Movil, a variance would be needed regardless to replace the existing septic system.

Stormwater Runoff

The existing garage is currently not guttered, allowing water to runoff the structure towards the mound system. Gutters shall be added to the existing structure to prevent water from running towards the septic area or Lake Movil. A stormwater plan using gutters, landscaping techniques, or a combination of both will need to be submitted to the JPB staff for approval prior to issuing approval of a land use permit.

Fire Department

No concerns were identified by the Fire Department.

Beltrami County Environmental Services

*We have no concerns regarding this request. Minnesota Rules Chapter 7080 and the Beltrami County SSTS Ordinance only requires a setback from a structure that is intended or used for human occupancy. It appears that this is a variance request from a stricter requirement that was established in a local Ordinance.*

*Brent Rud, Environmental Services Director*

Neighborhood Comment

GBAJPB Minutes

October 11, 2017

No neighborhood comment was received at the time of writing this report.

### Comprehensive Plan References

In regards to the comprehensive plan, the goals of the plan are to protect the safety, health and welfare of the community population and environment. With the proper construction steps for mitigating potential impacts, this request is in keeping with the goals and policies of the comprehensive plan.

### **RECOMMENDATION:**

Staff recommends approval of a variance of thirteen (13) feet from setback of structure to replace failing mound septic system located at 11795 East Movil Lake Road NE in R-2 Suburban Residential and Shoreland zoning district within Northern Township.

Approval recommended with the following conditions:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A stormwater runoff plan must be submitted with a septic permit application for approval.

Board members had the following concerns:

- None were identified.

Motion by Meehlhause, second by Chambers to approve Resolution No. 2017- 34 for parcel 31.01479.00 for a variance of thirteen (13) feet from setback of structure to replace failing mound septic system with conditions:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A stormwater runoff plan must be submitted with a septic permit application for approval.

And findings:

1. **Has the applicant demonstrated a practical difficulty?**  
Yes. The parcel is a substandard lot with existing structures that are located on the site with a difficulty for suitable locations for the proposed septic system.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**  
Yes. The existing accessory and principle structures were constructed on site without planning for future expansion or alterations. With the parcel being a substandard lot on Lake Movil, the site is hindered for any future expansion that may be requested.
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. Keeping the septic mound system away from Lake Movil and outside the 100' OHW is in keeping with the ordinance.

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

Yes. Other suitable locations for the septic tank could be approved but would most likely require additional variances or would alter the character of the surrounding area.

Motion carried unanimously.

**RESOLUTION NO. 2017- 35 – V-17-80.05820.00 – JOE & LESLIE DUKEK**

Joe and Leslie Dukek are requesting a variance for lot size reduction of 1,073 Square Feet from the (R-3) Suburban Residential UNSEWERED Zoning District at Lot 5, Block 2 of The Pines Subdivision in the City of Bemidji.

**BACKGROUND:**

The applicant approached staff with a proposal to build on a lot they intended to purchase. JPB staff informed them that this lot would require a variance as it does not meet the requirements for lot size. This lot was platted as part of The Pines Subdivision.

**PLANNING CONSIDERATIONS:**

The key requirement this lot is missing is the R-3 Zoning District by JPB ordinance is not entitled to the 66% rule or commonly called the two-thirds rule. All other zoning districts are entitled to this rule and the B-1, R-1, and R-2 districts are allowed to be buildable if 100 feet wide and one (1) acre in size. The R-3 Zoning district was updated in the 2012 ordinance update reducing lot size from two (2) acres for unsewered and 22,000 S.F. for sewerred to 45,000 S.F. unsewered and 15,000 S.F. sewerred, at this time the right of the 66% rule was removed from the ordinance for the R-3 Zoning District

**Existing Conditions**

Currently vacant lot with undulating terrain. A grading plan is going to be prepared and reviewed by City of Bemidji building and engineering departments as well as JPB staff before a building permit can be issued.

**Setbacks**

No setback reductions are being requested as part of this variance.

**Impervious Surface**

No request for additional impervious surface is being made as part of this variance.



## SSTS

This lot has room for a septic system and alternate without the need for any additional variance. The proposed septic location will be greater than 500 feet from Lake Bemidji.

## Development Team (Public Works / Engineer; Building Official; Fire Department)

No issues were presented regarding this variance from the fire department. The building department will need to approve the start of construction. An erosion control permit will need to be approved before any grading can start.

The City of Bemidji Engineering department had the following response:

*Applicant shall submit a driveway access permit, once determined, for review prior to construction.*

*Also applicant shall ensure post construction stormwater shall not exceed existing flows or adversely affect neighboring parcels.*

*Thanks,*

*Sam Anderson, P.E. | Assistant City Engineer*

## Neighborhood Comment

At the time of writing this report no comment or concern was received from any neighboring parcels.

## Comprehensive Plan References

With the conditions for approval followed this request is in keeping with the spirit and intent of the GBAJPB Land Use Plan.

## **RECOMMENDATION:**

Staff recommends approval of a variance for lot size reduction of 1,073 Square Feet from the (R-3) Suburban Residential UNSEWERED Zoning District at Lot 5, Block 2 of The Pines Subdivision in the City of Bemidji, with the following conditions:

1. A grading and drainage plan will be approved by City of Bemidji and JPB staff prior to the start of any construction activities can occur on-site.
2. All ordinance requirements for setbacks and impervious surface will be met.

Board members had the following concerns:

- Erickson questioned existence of lots not yet developed. Staff estimated two (2) or three (3). Erickson further asked if previously developed lots required variances. Staff explained they did not as the lots were over 45,000 SF at the time of the original ordinance.

- Kelly commented on newness of the development and it already needing a variance. Staff explained that since the ordinance update in 2012 reduced the required lot size from 2 acres to 45,000 SF, it also reduced the flexibility allowed by the 66 Percent Rule.

Motion by Erickson, second by Larson to approve Resolution No. 2017-35 allowing a variance for parcel 80.05820.00 for lot size reduction of 1,073 Square Feet with the following conditions:

1. A grading and drainage plan will be approved by City of Bemidji and JPB staff prior to the start of any construction activities can occur on-site.
2. All ordinance requirements for setbacks and impervious surface will be met.

and findings:

1. **Has the applicant demonstrated a practical difficulty?**  
Yes. The existing parcel was platted lawfully before the adoption of the JPB ordinance, building a home on a lot greater than one acre in size in an approved subdivision is a reasonable request.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**  
Yes. The lot was platted lawfully before stricter standards of the R-3 Zoning District were in place.
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. The intent of the ordinance is to ensure substandard lots that are too small to be served by private well and septic systems are not developed, this lot has room for well and septic systems.
4. **Can the variance be granted without altering the essential character of the surrounding area?**  
Yes. Other lots in this neighborhood larger than 45,000 Square Feet have already been developed. Many of the lots in this subdivision have topographic features giving each lot its own unique personality.

Motion carried unanimously.

RESOLUTION NO. 2017-36 – V-17-31.01279.00 – KARL & SHERI PETERSON

Karl and Sheri Peterson are requesting approval of four (4) variances on a substandard lot in order to upgrade a single family home and to replace the septic system located at 6131 Lavinia Rd NE in R-3 Suburban Residential (UNSEWERED) and Shoreland zoning district. The four (4) variances are as follows:

1. Eighteen (18) foot setback reduction from OHW for addition to home.
2. Ten (10) foot setback reduction between replacement mound system and home.

3. Four (4) foot property line setback reduction for replacement mound system.
4. To expand the existing structure footprint on a substandard parcel of land.

**BACKGROUND:**

The applicant is requesting approval to replace a failing septic mound system as well as upgrade their single family home by adding two new additions along with constructing a garage within the shoreland overlay. The applicant also plans to expand the house by adding a second story. The applicant would like to update the property to be more suited towards year-round living in Minnesota. The applicant does plan to remove the existing driveway for the new proposed septic mound system as well remove the existing shed in lieu of the new proposed attached garage.

The JPB Ordinance is the regulating authority for the permitting of new septic systems as well as maintaining septic system compliance within the City of Bemidji and Northern Township. This is granted through the Minnesota Rules Chapters 7080 through 7083, Subsurface Sewage Treatment Systems Program. The state requires counties to regulate individual and minor septic system permits as well as compliance. LGU's are allowed to adopt an ordinance, if it is as strict as the counties. In this case the Section 800 Sanitation Standards in JPB Ordinance would be stricter than the county ordinance.

There is approximately thirty (30) feet between the property line and the pavement of Lavinia, with a 66ft right of way for the entire street. Staff thinks that the distance between the property line and the pavement is sufficient to preclude any concern over further expansion of the roadway and impediment to the septic system. A similar variance to this planning case regarding a septic system was approved in 2014 for the Crary property.

Therefore the applicant is requesting two (2) variances for the placement of a septic mound system within the required twenty (20) foot setback from any structure and within the ten (10) foot setback from any property line. The applicant is also requesting two (2) variances for the proposed attached garage and the additions as they are wanting to expand the existing structure footprint on a substandard parcel and because the existing structure lies inside the one hundred (100) foot setback of the OHW. A variance will not be needed for reduction in pervious surface as the applicant does not plan to increase the impervious surface, complying with the maximum twenty-five (25) percent coverage in the shoreland overlay.

**PLANNING CONSIDERATIONS:**

This lot does meet the dimensional width standards of the shoreland overlay on a General Development Lake, but does not meet the R-3 Suburban Residential requirements. However, this expansion would not require a variance if this was a

standard lot as this proposed expansion would still be meeting the required pervious surface coverage and would not be encroaching any closer to the lake.

#### Existing Conditions/Alternative Sites

The existing house is currently not meeting the setback of 100' from the Ordinary High Water Level, as it roughly sits 75.6 feet away. With the property being substandard lot and the way it currently lays out, a variance would be need regardless for the replacement of septic mound system. Other alternative sites could happen, but would most likely encroach on Lake Bemidji and need additional variances.

JPB staff anticipate that this lakeshore neighborhood will maintain its same character as properties continue to be updated, repaired and maintained as allowed by current zoning ordinance regulation.

#### Stormwater Runoff

The existing house is currently not guttered, allowing water to runoff the structure and possibly into Lake Bemidji. Gutters shall be added to the existing structure and the proposed additions to prevent water from running to Lake Bemidji or towards the septic area. The proposed driveway shall be sloped away from the septic area as well. If swales or rain gardens are needed to hold water runoff, then they shall be installed. A stormwater plan using gutters, landscaping techniques, or a combination of both will need to be submitted to the JPB staff for approval prior to issuing approval of a land use permit.

#### Fire Marshal

The fire department had no concerns with the proposed additions or the location of the septic mound system in regards to fire protection.

#### Neighborhood Comment

No neighborhood comment was received at the time of writing this report.

#### Comprehensive Plan References

This request is in keeping with the goals and policies of the Greater Bemidji Area Land Use Plan.

#### **RECOMMENDATION:**

Staff recommends approval of four (4) variances on a substandard lot in order to upgrade a single family home and to replace the septic system located at 6131 Lavinia Rd NE in R-3 Suburban Residential (UNSEWERED) and Shoreland zoning district. The four (4) variances are as follows: 1.) Eighteen (18) foot setback reduction from OHW for addition to home; 2.) Ten (10) foot setback reduction between replacement mound system and home; 3.) Four (4) foot property line setback reduction for replacement

mound system; and 4.) To expand the existing structure footprint on a substandard parcel of land. Approval recommended with the following conditions:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A septic permit shall be obtained prior to installation.
3. A stormwater runoff plan must be submitted with a land use permit application for approval.

Board members had the following concerns:

- Erickson questioned placement of well. Staff replied that the old well location is unknown, but the new proposed well location on the site plan meets the required 50' setback from the septic.
- Kelly questioned previous stipulation agreement. Karl Peterson explained the delay in upgrading the noncompliant septic system from their 2015 property purchase.
- Kelly reiterated 66' ROW and 33' centerline, but has concerns about applicants being encroached once public utilities are installed.
- Staff clarified fourth variance meaning of expanded footprint to include the addition of a second story. Kelly commented on vagueness of request.
- Erickson asked if a second story is common in this area. Staff explained it is possible as the maximum height allowed in R-3 Shoreland Overlay is 30'.

Motion by Chambers, second by Erickson to approve Resolution No. 2017-36 for variances to parcel 31.01279.00:

- 1.) Eighteen (18) foot setback reduction from OHW for addition to home;
- 2.) Ten (10) foot setback reduction between replacement mound system and home;
- 3.) Four (4) foot property line setback reduction for replacement mound system;
- 4.) To expand the existing structure footprint on a substandard parcel of land

with the following conditions:

1. Setback verification fee shall be paid before septic permit can be issued.
2. A septic permit shall be obtained prior to installation.
3. A stormwater runoff plan must be submitted with a land use permit application for approval.

and findings:

1. **Has the applicant demonstrated a practical difficulty?**

Yes. The existing structures are located on a substandard parcel with limited locations for the replacement of the proposed septic system. The existing house was built within the 100' OHW setback before the official controls and oversight of today's setbacks, as well as surveying and platting practices.

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

Yes. The existing house was built within the 100' OHW setback before the official controls and oversight of today's setbacks, as well as surveying and

platting controls. With the way the property is laid out and not having the opportunity to hook up to city services, a variance is need regardless to replace 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. Having an attached garage or detached accessory structure is in keeping with the character of the neighborhood, and does not compromise the intent of the zoning ordinance. It is a permitted use in the R-3 district as well as the shoreland overlay. The allowed variance for the construction of the attached garage and the proposed additions is improving a non-conformity of lot size and bringing the septic system in to compliance.

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

Yes. Nearly every property in this neighborhood has the benefit of a garage, likely constructed before the implementation of stricter regulation and oversight. A compliant septic system will have no effect on the surrounding neighborhood and shall only improve the quality of the area.

Motion carried unanimously.

ORDINANCE NO. 2017-06 Z-17-80.03331.01 – CHESTER BERG TOYOTA

Chester Berg Toyota is requesting to rezone a recently purchased property adjacent to their existing car dealership from an R-5 High Density Residential District to a B-2 General Commercial District within the City of Bemidji.

**BACKGROUND:**

The applicant would like to use this property currently for some additional storage area, and plans to further develop the property in the future. Further development could be additional area to store vehicles being maintained in their shop, or for displaying vehicles that are for sale. A rezone was approved for Chester Berg Toyota to redevelop their entire site on May 13th, 2015. This parcel was recently purchased so it was not included in the 2015 rezoning.

**PLANNING CONSIDERATIONS:**

When reviewing zoning requests it is imperative to ensure that “spot zones” are not created. Spot zoning allows for a particular parcel of land to have land uses differing from land uses allowed in adjacent and small regional areas, and is likely a deviation from the land use plan.

### Existing Conditions

The site is currently fenced without screening. The applicant has agreed to screen the North, East, and South side of the fence to be compliant with Section 1002 Exterior Storage of the zoning ordinance.

### Adjacent Zoning and Land Use

The adjacent zoning is surrounded by (B-2) General Commercial and (R-5) High Density Residential to the North. With the proper screening this request is not anticipated to have a negative impact on the surrounding land uses.

### Development Team (Public Works / Engineer; Building Official; Fire Department)

No concerns were presented to JPB staff from Public Works, Building, or Fire Department as at this time no development is occurring. Any development that does occur on this parcel will need to be reviewed by JPB staff and City of Bemidji staff.

### Neighborhood Comment

No comment was received at the time of writing this report.

### Comprehensive Plan References

If all aspects of the zoning ordinance are met on this property, this request is consistent with the overall intent of the GBAJPB Land Use Plan.

### **RECOMMENDATION:**

Staff recommends approval to rezone the property located at 705 Paul Bunyan Dr NW in the (R-5) High Density Residential Zoning District in the City of Bemidji to the (B-2) General Commercial Zoning District.

Board members had the following concerns:

- Kelly asked if the property is rezoned, can it be used for storage. Staff said it is an allowed use if properly screened. Kelly further questioned the need for paved surface. Staff explained it depends on the actual use, according to the ordinance.
- Erickson stated concern with improper usage if allowed to rezone. Staff stated the possible uses are commercial, so no reason exists to deny the request. Further, staff assured that violations will be addressed.
- City Attorney, Al Felix, stated legal support of the JPB and staff when addressing violation issues within the City of Bemidji.

Motion by Erickson, second by Larson to approve Ordinance No. 2017-06 for Chester Berg Toyota to rezone parcel 80.03331.01 from R-5 High Density Residential to B-2 General Commercial, with findings:

1. **Whether the change in classification would be consistent with the intent and purpose of this Ordinance.**  
Yes. The current intent and proposed future land use are consistent with the (B-2) General Commercial Zoning District.
2. **Whether every use that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.**  
Yes. General Commercial land uses are compatible in this area.
3. **Whether adequate sewer and water facilities, and all other needed public services, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified.**  
Yes. Municipal services are existing including, sewer, waste water, streets, and stormwater.
4. **Whether the proposed amendment would correct an error in the application of this Ordinance.**  
No. However, the rezone will bring the land into compliance with the zoning ordinance, as the property is currently used commercially despite its residential zoning.
5. **Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.**  
Yes. The property was a duplex and compliant with the (R-5) High Density Residential zoning district. The property was purchased by Chester Berg Toyota for future expansion; rezoning the property would be compliant with the proposed future use.

Motion carried unanimously.

**RESOLUTION NO. 2017-31 – V-17-80.05735.00 & 80.05736.00 – GM DEVELOPMENT**

Staff followed up on two (2) requests by the Board at the September 13 meeting:

1. Explain the durability of crushed concrete.  
City Engineer Craig Gray submitted a memo that compares crushed concrete to bituminous pavement, stating crushed concrete is not as durable and the ordinance language needs correcting to eliminate term “equally as durable.” Gray continued by stating the stormwater runoff of both surfaces are similar by calculation. Further, Gray described the ponds as insufficient for accommodating the sediment deposited by crushed concrete, and the city will face increased expenses for regular cleaning.
2. Develop findings for approval of variance.  
Staff presented the following:
  1. **Has the applicant demonstrated a practical difficulty?**



Yes. The use of bituminous pavement or concrete for a large area that will receive relatively low traffic, with a secondary use for parking creates a practical difficulty. The use of crushed concrete is reasonable request in an industrial setting zoned for providing areas for intensified land uses where physical effects do not place hardship on surrounding zoning districts.

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

Yes. This is a large development site, the nature of the land use requires large low usage areas for mobility and trailer parking with plans for future southerly expansion. The large areas of low usage heavy truck traffic creates a unique circumstance that make the strict application of the requirement to hard surface the entire area a practical difficulty.

**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. The proposed trucking terminal for the warehousing and distribution of freight is consistent with (I-1) Light Industrial land uses, the low usage of the proposed crushed concrete area will still remain consistent with the objective of the (I-1) Light Industrial Zoning District to encourage the development of industrial uses which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.

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

Yes. A low usage maintained crushed concrete area for storing and maneuvering of trucks and trailers will not alter the essential character of the surrounding industrial landscape.

Staff provided updates of the project including the submittal of building plans which include paving, a temporary permit to install footings, and the development agreement which will be finalized soon. Applicant has already begun ground work although erosion control measures are still needed.

Motion by Erickson, second by Meehlhause to deny the variance for parcels 80.05735.00 & 80.05736.00 in Resolution No. 2017-31 with original findings:

**1. Has the applicant demonstrated a practical difficulty?**

No. The use of an alternate to concrete, paver, or equally durable surface for a warehouse and distribution trucking service driving and maneuvering area does not constitute a practical difficulty for

reasons other than the higher cost of required surfaces. The required surfaces can be designed or engineered to handle the heavy truck traffic.

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

No. This is a large vacant currently undeveloped lot without any unusual constraints.

**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. A variance from the improved surface requirements is not promoting best planning practices in the implementation of the ordinance and land use plan, nor is it in keeping with the spirit and intent of the of the zoning ordinance.

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

No. Recent similar use development through the Second Addition to Industrial Park has been constructed with surfaces meeting the requirements of the JPB ordinance.

Roll call vote:

Ayes: Meehlhause, Erickson

Nays: Chambers (alternate), Larson (alternate), Kelly

Abstain: None

Absent: Frenzel (utilized alternate), Albrecht (utilized alternate)

Motion failed to carry.

Chair Mike Kelly asked for suggestions to make project work.

- Applicant Wayne Gadberry stated his experience with crushed concrete works as well as bituminous as long as it is maintained. He also stated his goal of expanding, within ten (10) years, thus removing whatever surface is placed there. Gadberry further stated urgency of beginning the development as their goal is to open for business January 2018. He also reminded the board that Willmar, Fargo and Duluth facilities have crushed concrete surfaces.
- Kelly asked Gadberry how much surface would be removed upon future expansion. Gadberry estimated 60-70%.
- Contractor Howie Zetah suggested placing the site plan diagram up on monitor. Kelly said each board member has a copy of it in his/her packet.

Motion by Larson, second by Chambers to approve Resolution No. 2017-31 for parcels 80.05735.00 & 80.05736.00 with conditions:

1. The applicant shall enter into a development agreement with the JPB to do the following:
  - a. Ensure the construction is executed as approved;
2. The applicant will provide JPB with a material gradation sheet for the Crushed Concrete Class 5 ensuring it meets MnDOT standards at a minimum.

And with findings:

1. **Has the applicant demonstrated a practical difficulty?**

Yes. The use of bituminous pavement or concrete for a large area that will receive relatively low traffic, with a secondary use for parking creates a practical difficulty. The use of crushed concrete is reasonable request in an industrial setting zoned for providing areas for intensified land uses where physical effects do not place hardship on surrounding zoning districts.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**

Yes. This is a large development site, the nature of the land use requires large low usage areas for mobility and trailer parking with plans for future southerly expansion. The large areas of low usage heavy truck traffic creates a unique circumstance that make the strict application of the requirement to hard surface the entire area a practical difficulty.
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. The proposed trucking terminal for the warehousing and distribution of freight is consistent with (I-1) Light Industrial land uses, the low usage of the proposed crushed concrete area will still remain consistent with the objective of the (I-1) Light Industrial Zoning District to encourage the development of industrial uses which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.
4. **Can the variance be granted without altering the essential character of the surrounding area?**

Yes. A low usage maintained crushed concrete area for storing and maneuvering of trucks and trailers will not alter the essential character of the surrounding industrial landscape.

Amendment offered by Meehlhause to include approval conditions included in City Engineer's memo:

1. Provide an on-site storm water management plan (SWMP) to collect and treat runoff from the non-paved areas
2. Provide a maintenance agreement for the SWMP to insure facilities are cleaned of sediment on a regular basis

Amended motion by Larson, seconded amendment by Chambers.

Stated concerns by staff:

- City Engineer stated that all work must stop until new grading, drainage and SWMP plans have been approved. Further, a certified SWMP must provide the calculations.

Roll call vote:

Ayes: Kelly, Larson (alternate), Chambers (alternate)

Nays: Erickson, Meehlhause

Abstain: None

Absent: Albrecht (utilized alternate), Frenzel (utilized alternate)

Motion carried.

OTHER BUSINESS – None presented.

DIRECTOR'S REPORT

Mai commented on the benefits of recent staff training, summarized upcoming planning case, detailed progress on development projects, and presented updates on enforcements.

Kelly announced the postponement of the Annual Fall Tour.

UPCOMING MEETING DATES:

October 26, 2017	-- JPC Regular Meeting @ 6:00 p.m.
November 8, 2017	-- JPB Regular Meeting @ 6:00 p.m.
November 16, 2017	-- JPC Regular Meeting @ 6:00 p.m.
December 13, 2017	-- JPB Regular Meeting @ 6:00 p.m.

ADJOURNMENT:

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

Motion carried unanimously.

Respectfully submitted,  
Terri Ball  
Planning Assistant

JPB Minutes Approved and attested by:

  
\_\_\_\_\_  
Joint Planning Board Representative