

**GREATER BEMIDJI AREA
REGULAR JOINT PLANNING COMMISSION MEETING**

**Thursday, September 21, 2017
6:00 P.M.**

**Council Chambers, City Hall
317 4th ST NW
Bemidji, MN 56601**

AGENDA

- **Call to Order/Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approve Agenda**
- **Approve Minutes**
 - **Thursday, August 24, 2017 Regular Meeting**

NEW BUSINESS

Public Hearings

1. **Northern Township: V-17-31.01479.00** – Gary Krohn **CM**
2. **City of Bemidji: V-17-80.05820.00** – Joe and Leslie Dukek **CB**
3. **City of Bemidji: V-17-80.00036.00** – Thomas & Ann Allen **CM**
4. **Northern Township: IUP-17-31.00888.00**– Patricia Roholt **CB**
5. **Northern Township: V-17-31.01279.00** – Karl and Sheri Peterson **CM**
6. **City of Bemidji: Z-17-80.03331.01** – Chester Berg Toyota **CB**

OTHER BUSINESS

1. **Visitors** **Chair**
2. **Director Report** **CM**
 - **Comprehensive Plan**
 - **Budget**
3. **Upcoming Meetings** **Chair**
 - **October 11, 2017** 6:00 pm **JPB Regular Meeting**
 - **October 26, 2017** 6:00 pm **JPC Regular Meeting**
 - **November 8, 2017** 6:00 pm **JPB Regular Meeting**
 - **November 16, 2017** 6:00 pm **JPC Regular Meeting**
4. **Adjourn** **Chair**

**MINUTES
GREATER BEMIDJI AREA
REGULAR PLANNING COMMISSION MEETING**

September 21, 2017
6:00 p.m.

City Hall
Council Chambers

CALL TO ORDER: Vice-Chair Kristi Miller called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:00 p.m. Roll call was taken and the pledge of allegiance was recited

MEMBERS PRESENT: Faver, Steffen, David, Hendricks (6:05), Lahn, Miller, Smith

MEMBERS ABSENT: Berg, Lemmer

STAFF PRESENT: Casey Mai, Cory Boushee, Terri Ball

OTHERS: Kim Hegstrom, Tom Allen, Gary Krohn, Karl & Sheri Peterson, Mark Dickinson, Donna Dickinson, Connie Ghostley, Ann Austad, Liz & Bill Nichols

APPROVAL OF AGENDA:

Several items under Public Hearing were re-ordered.

Motion by Steffen, second by David, to approve the Amended Agenda.

Motion carried unanimously.

APPROVAL OF MINUTES:

Motion by Faver, second by Steffen, to approve minutes from the August 24, 2017 Greater Bemidji Area Regular Joint Planning Commission.

Motion carried unanimously.

NEW BUSINESS:

Public Hearing:

Mai presented the first case:

PLANNING CASE – V-17-80.00036.00 – Thomas & Ann Allen

The applicant is 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

In regulating locations for a septic tank, septic system drain fields or a mound system, there are concerns that need to be addressed. Including increased run-off draining towards the mound system and protecting the system during construction. Over the course of the past two years, JPB Staff has hired Dave Larson, a licensed septic consultant to review all septic permits and to provide recommendations for approval of installation. Staff generally takes Larson's recommendations as long as it is consistent with the GBAJPB Zoning and Subdivision Ordinance.

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 with in 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:

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.

Public Hearing opened at 6:13 p.m.

Tom Allen confirmed that cesspool is to be removed. Commissioner Smith questioned engineering style of retaining wall, but Allen is unsure as he is leaving that up to the hired designers/installers. Further, Allen stated his purpose is to update his property for its eventual sale.

Public Hearing closed at 6:16 p.m.

Motion by Steffen, second by Lahn to 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 with in 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 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 of fact:

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.

Motion carried unanimously.

Boushee presented the second case:

PLANNING CASE – IUP-17-31.00888.00 – Patricia Roholt

Applicant is requesting an Interim Use Permit in order to operate a vacation rental at 1118 Birchmont Beach Rd NE in the (R-3) Suburban Residential UNSEWERED Zoning District and shoreland overlay within Northern Township.

BACKGROUND

The applicant is requesting to use their property as a vacation rental home, proposing short-term rental to families. Renting the home will generate the income needed to retain Planning Commission Meeting, September 21, 2017

ownership of their homestead. The Greater Bemidji Area Zoning Ordinance Section 302 allows for vacation rentals to be located in residential zoning districts with the approval of an interim use permit.

No alterations to the property are expected. The proposed use is not expected to require any significant alterations to the property.

PLANNING CONSIDERATIONS

Parking / Maximum Guests

This site has ample parking and would allow for 27 or more occupants. This is a concern as this parcel is served by a private SSTS and well and could easily be overloaded. With this permit staff feel that a maximum of twelve (12) guests will be allowed at one time. The applicant is looking to rent to two (2) to four (4) customers at a time, so staff anticipates large groups to be rare. This number is typical of two larger families looking to rent a VRBO, which is a typical demographic in the market for these types of rental arrangements.

Screening

Garage space is available to keep recreational equipment inside.

Signage

No sign is proposed at this time.

Agency Concerns

Mississippi Headwaters Board

Hello Cory,

My only comment on this Conditional Use Permit is that it follow the minimum requirements set forth by the Mississippi Headwaters Board. Below are the considerations taken directly from the Comprehensive Plan.

Tim Terrill

Executive Director

Mississippi Headwaters Board

Beltrami County ESD

This type of use is fairly common in lake country though largely unregulated. The only problem I have ever seen with these types of VRBO uses is directly tied to the

number of people that try to squeeze into them. If the number of users could be limited, I would have no concern with it at all.

What I have seen in the past on Leech Lake is that large families will rent it out as an alternative to renting a few smaller cabins at a resort and use it as their summer vacation. They recreate as much as possible and bring their watercraft with them. The neighbors get annoyed very quickly with the additional activity and noise that isn't normally there all summer long.

The septic system is sized for a certain number of people (based on 2 people per bedroom, spreading out normal water uses over time) and would potentially be an issue especially here on the north end of Lake Bemidji with the sandy soil that would potentially allow for a fast migration of nutrients into Lake Bemidji if the system were hydraulically overloaded.

If a condition that limits the number of occupants to a reasonable number can be established and enforced, I don't think it would be any different than it already is.

*Brent Rud
Environmental Services Director
SWCD District Manager*

Comprehensive Plan References

JPB staff believes that the request for vacation rental is not conflicting, to any goals and policies set forth in the Greater Bemidji Area Land Use Plan.

RECOMMENDATION

Staff recommends approval of the Interim Use Permit for Patricia Roholt to operate a vacation rental to be located at 1118 Birchmont Beach Rd NE in the (R-3) Suburban Residential District and Shoreland Overlay of Northern Township, with the following conditions:

1. The IUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.
2. No more than twelve (12) occupants may occupy the residence at one time.
3. Exterior alterations and expansions of the cabin footprint will require a review of this IUP or termination.
4. All recreational equipment will be stored inside.
5. JPB staff will conduct reviews at the property one month, three months and six months of operation to ensure there are no negative effects on surrounding

properties. If any unforeseen issues result in damage or disruption to surrounding properties this IUP will be reviewed and may be terminated by the Joint Planning Board. This includes but is not limited to complaints of noise, animals or trespassing.

6. The applicant will remain compliant with any regulations or fees required by Northern Township, failure to do so may result in termination of this IUP.
7. Must provide proof of registration with MN Dept. of Health within thirty (30) days of approval or before operation.
8. Must provide proof of a compliant SSTS before operation as a vacation rental, and will continue to show proof of compliant system every three (3) years for the life of the IUP.
9. Applicant will retain a property manager who is within 1 hour of travel to property.

Public Hearing opened at 6:32 p.m.

Representative Kim Hegstrom stated she is a part time resident in the neighborhood and is in support of this VRBO. Hegstrom commented about the neighborhood always being gracious to visitors, praising the Roholt family accomplishments in Bemidji, and clarifying the purpose of the request is to be financially able to keep the home's ownership within the family. Commissioner Miller questioned how soon the property will transfer ownership which Hegstrom stated is in process but not complete. Hegstrom also stated the applicant plans to rent to small groups, but will not host weddings, and in the beginning will not allow access to the upstairs. Hegstrom commented that people feel afraid because this is different, but with all the empty homes along the beach, having someone occasionally occupy the property is safer for the neighborhood. Commissioner Faver asked if this will be available year round, which was affirmed. Dan DeKrey stated his concerns include lack of available rules and regulations for VRBOs, lack of property management as owner is often out of state/country, possible noise ordinance violations, density, tax designation, insurance and fire code compliance, septic soundness, as well the community being unprepared for this type of use. Overall, he does not support this request. Ann Austad shares the property line with applicant and doesn't understand why we would allow this change in use. She has been a neighbor for 46 years, feels it is a detriment to her property, that it will destroy the quiet security she and other neighbors have, and has concern because there will not be on site management and the person suggested to be a caretaker works a lot at a location farther than an hour away. Austad read comments provided by Jim & Connie Ghostley who stated concern about losing property value before ready to sell and are opposed to request.

Public Hearing closed at 6:46p.m.

Commissioner Smith stated this is a permitted use with an IUP and all fears are speculative. Commissioner Miller commented on feeling torn with decision because it is a permitted use but neighbors should be listened to. Staff clarified that JPB is regulating authority and without this IUP for short term rentals that have conditions and reviews, the

applicant is able to operate a long term rental without regulations. Commissioner Smith reiterated the intent is for applicant to maintain a homestead not to flip an investment. Commissioner Lahn commented that staff's addition of condition #9 is reasonable. Commissioner Faver discussed difference between a Bed and Breakfast and VRBO and staff stated they are similar use.

Public Hearing re-opened at 6:53 p.m.

Liz Nichols commented that recent conversation with applicant did not provide clear answers, she has concerns about no resident caretaker, and reminded commissioners that this is a residentially zoned area.

Public Hearing closed at 6:55 p.m.

Motion by Smith, second by Steffen to approve approval of the Interim Use Permit for Patricia Roholt to operate a vacation rental to be located at 1118 Birchmont Beach Rd NE in the (R-3) Suburban Residential District and Shoreland Overlay of Northern Township, with the following conditions:

1. The IUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.
2. No more than eight (8) occupants may occupy the residence at one time.
3. Exterior alterations and expansions of the cabin footprint will require a review of this IUP or termination.
4. All recreational equipment will be stored inside.
5. JPB staff will conduct reviews at the property one month, three months and six months of operation to ensure there are no negative effects on surrounding properties. If any unforeseen issues result in damage or disruption to surrounding properties this IUP will be reviewed and may be terminated by the Joint Planning Board. This includes but is not limited to complaints of noise, animals or trespassing.
6. The applicant will remain compliant with any regulations or fees required by Northern Township, failure to do so may result in termination of this IUP.
7. Must provide proof of registration with MN Dept. of Health within thirty (30) days of approval or before operation.
8. Must provide proof of a compliant SSTS before operation as a vacation rental, and will continue to show proof of compliant system every three (3) years for the life of the IUP.
9. Applicant will retain a property manager who is within 1/2 hour of travel to property.
10. JPC will review IUP at the end of one (1) year.

And with findings:

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1. **Whether the proposed use adversely affects the public safety, health, morals, convenience and general welfare of the occupants of the surrounding land.**
No. There is no evidence that a vacation rental will adversely affect the surrounding land as long as the conditions are followed and met.
2. **Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land.**
No. No changes to access or traffic circulation flow on adjacent streets are proposed. Increases in traffic or other negative impacts are not anticipated.
3. **Whether the proposed use adversely affects property in the surrounding area.**
No. There are no adverse effects to property in the surrounding area anticipated as a result of this proposal. The subject parcel is appropriately zoned for the proposed use.
4. **Whether the proposed use is in conformance with the community's Comprehensive Plan or Land Use Plan.**
Yes. The proposed use is consistent with the goals and policies of the JPB Land Use Plan. Per the GBAJPB Zoning Ordinance, vacation rentals are allowed pursuant the issuance of an Interim Use Permit by the JPB, and the subject parcel is appropriately zoned for the proposed use.
5. **Whether adequate utility, drainage and other such necessary facilities have been or can be provided.**
Yes. As long as a compliant SSTS is maintained on the property.

Roll Call Vote:

Ayes: Smith, Lahn, Hendricks, David, Steffen

Nays: Miller, Faver

Absent: Lemmer, Berg

Abstain: None

Motion carried.

Mai presented the third case:

PLANNING CASE – V-17-31.01479.00 – Gary Krohn

Applicant 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.

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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 Bemidji 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

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

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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 land use permit application for approval.

Public Hearing opened at 7:17 p.m.

Gary Krohn stated gutters are on order.

Public Hearing closed at 7:17 p.m.

Motion by Steffen, second by Miller to approve 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 land use permit application for approval.

And with 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.

Boushee presented the fourth case:

PLANNING CASE – V-17-80.05820.00 – JOE AND LESLIE DUKEK

Applicants 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

A lot of record is a lot that has been created before the adoption of a zoning ordinance or a change in zoning ordinance, and does not meet the current requirements for size and width. The JPB ordinance regulates substandard lots through Article V Nonconformities and Substandard Lots of Record Section 502 of the JPB ordinance has specific requirements for the construction of structures on substandard lots of record.

This request is to develop, this lot does not meet all of the requirements of Section 502. A lot of record that does not meet the requirements of Section 502 cannot have a new structure placed without approval of a variance and public hearing process.

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 sewer to 45,000 S.F. unsewered and 15,000 S.F. sewer, 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.

Public Hearing opened at 7:24p.m.

Property owner Mark Dickinson represents his clients who are purchasing this parcel, and urged commissioners to approve variance.

Public Hearing closed at 7:25 p.m.

Motion by Smith, second by Steffen to approve 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.

And with 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.

Mai presented the fifth case:

PLANNING CASE – V-17-31.01279.00 – KARL & SHERI PETERSON

Applicants 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.

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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 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.

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 Cray 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

Mr. Larson reviewed the site and deemed this the best possible location for the proposed treatment area.

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
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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.

Public Hearing opened at 7:37p.m.

Karl and Sheri Peterson stated that neighboring property has a ten (10) foot lake access to the north, and the public lake access is between one-quarter to one-third of a mile away. Further they stated surveyor Matt Murray worked diligently to keep impervious within the 25% maximum, and have assured neighbor that the finished project will be aesthetically pleasing. Commissioner Miller questioned if applicants intend to make this property their year-round home. Mr. Peterson stated the goal is to install the new mound system and in three (3) to five (5) years build the addition and move here to live year-round.

Public Hearing closed at 7:39 p.m.

Motion by Steffen, second by Hendricks to approve 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.

And with 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.

Boushee presented the sixth case:

PLANNING CASE – Z-17-80.03331.01 – CHESTER BERG TOYOTA

Applicant 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.

Public Hearing opened at 7:45p.m.

No one in audience.

Public Hearing opened at 7:45p.m.

Motion by David, second by Steffen to 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 with the following 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.

OTHER BUSINESS

None

DIRECTOR REPORT:

Mai summarized recent planning cases, and detailed development projects, as well as informed commissioners about zoning ordinance updates. The JPB approved amended scope of work that Houston Engineering will conduct on the Comprehensive Plan, and staff's goal is to have the ordinance updates and comp plan to sync together. Mai addressed recent enforcement activities and the budget progress through the recent meeting of the review committee.

UPCOMING MEETING DATES:

October 11, 2017	6:00 pm	JPB Regular Meeting
October 26, 2017	6:00 pm	JPC Regular Meeting
November 8, 2017	6:00 pm	JPB Regular Meeting
November 16, 2017	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

There being no further business, motion by Steffen, second by Lahn to adjourn the Regular Planning Commission meeting at 8:02 p.m.

Motion carried unanimously.

Respectfully submitted.
Terri Ball, Planning Assistant

Approved and attested by: 
Joint Planning Commission Representative