

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

**Thursday, May 26, 2022
6:00 P.M.**

**Bemidji City Hall 317 4th Street NW, Bemidji, MN 56601
/Cisco Webex Video Conferencing
(For log in information <https://www.jpbgba.org/planning-actions>)**

AGENDA

- **Call to Order/Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approve Agenda**
- **Approve Minutes**
 - **Thursday, April 28, 2022 Regular Meeting**

NEW BUSINESS

- 1. Visitors** **Chair**

Public Hearings

- 1. Northern Township – Z-22-31.00441.00 – Kelly & Jackie Moe** **NP**
- 2. Northern Township – V-22-31.00875.00 – Bruce Nord** **NP**

OTHER BUSINESS

- 1. Ordinance Update**
 - **Article VIII discussion (Sanitation Standards)** **JC/NP**
- 2. Director’s Report and Site Analyst & Enforcement Report** **JC**
- 3. Upcoming Meetings** **Chair**
 - June 8, 2022 6:00 pm JPB Regular Meeting
 - **June 15, 2022 5:00 pm Joint LGU Meeting**
 - June 23, 2022 6:00 pm JPC Regular Meeting
 - July 13, 2022 6:00 pm JPB Regular Meeting
 - July 28, 2022 6:00 pm JPC Regular Meeting
- 4. Adjourn** **Chair**

MINUTES

GREATER BEMIDJI AREA REGULAR PLANNING COMMISSION MEETING

May 26, 2022
6:00 p.m.

Cisco WebEx / Council Chambers
317 4th St NW

CALL TO ORDER: Chair Jeremy Berg 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: Berg, Faver, Steffen, David, Heinonen, Granlund, Gould, Lemmer, Chambers.

MEMBERS ABSENT: None.

STAFF PRESENT: Planning Director Jamin Carlson, Assistant Planner Nickolaus Phillips, Planning Administrative Assistant Ainslee Krause.

OTHERS: Bruce Nord, Matt Murray, Kelly Moe, Jackie Moe.

APPROVAL OF AGENDA:

Motion by Steffen, second by Chambers, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES:

Motion by Granlund, second by Steffen, to approve the minutes from the April 28, 2022, Greater Bemidji Area Regular Joint Planning Commission as presented. Motion carried unanimously.

VISITORS WITH BUSINESS NOT ON THE AGENDA: No visitors.

NEW BUSINESS:

Public Hearings:

Phillips presented the first case:

PLANNING CASE – Z-22-31.00441.00 – KELLY & JACKIE MOE – 60 DAY EXTENSION

Kelly & Jacqueline Moe are requesting a rezone of a previously developed parcel (PID 31.00441.00), currently in the B-1 Low-Density Commercial District, to R-2 Suburban Residential. This property is located on the northwest side of Fairgrounds Rd NW at 7493 Fairgrounds Rd NW in Northern Township.

Commercial districts are best located along such high traffic corridors, and separation of parcels by such corridors does not change the overall character of the commercial built environment. On the other hand, highway corridors do not fit with the character of a residential neighborhood.

- This is evidenced by the construction of noise barrier walls along highways, as seen adjacent to many residential neighborhoods around metropolitan areas.
- The argument that such a separation should not be viewed as a break in the district ignores the intended character of those spaces, and the obvious mitigations used to reduce traffic noise in those areas.

The applicants approached Staff inquiring about the potential construction of a storage and garage structure, which would not be put to commercial use. Staff explained that, unless a commercial use were started on the lot, expansion of the non-conforming use would not be allowed under the current zoning district. The Greater Bemidji Area Comprehensive Plan shows the area is already zoned in harmony with the proposed future land use patterns. While the residential use is not likely to be encroached upon by the existing commercial uses, there is the potential for redevelopment and intensification of those uses to occur.

Staff acknowledge that the current characteristics of the property make it well suited to continue in a residential use, considering the dense vegetation that acts to buffer the dwelling from surrounding land uses. It should be noted that rezoning to residential allows for extensive tree clearing, with only two front yard greenspace trees required under §1007. A rezone cannot be conditioned to preserve trees. Outside of the base minimum landscape standards for commercial lots, there are no good controls available within the Zoning Ordinance to protect the existing trees, and removal of those trees eliminates the only positive isolating feature of the property that would promote residential character.

Development Team Comment

No comments were received from the development team, which included the Township, County, MnDOT, JPB Attorney, Sheriff, and Fire Department.

Neighborhood Comment

At the time of writing, no further neighborhood concerns were received.

RECOMMENDATION & FINDINGS

After thorough evaluation, staff recommends denial of this rezone of the subject property, parcel 31.00441.00, from (B-1) Low Density Commercial to (R-2) Suburban Residential, which would allow continued re-development of the property for single-family residential use. Denial of this rezone action is based on the following findings of fact:

Findings of Fact:

1. Whether the change in classification would be consistent with the intent and purpose of this Ordinance.

No. The proposed future land use is not consistent with the surrounding properties and zoning districts. Properties along Fairgrounds Rd NW have been developed commercial and public gathering event spaces for quite some time, and the intensification of single-family uses is not in the scope of the comprehensive plan and zoning ordinance.

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.

No. While this area is currently made up of a mix of commercial and residential uses, the existing commercial lots in the vicinity are better suited to further commercial development. Further establishing the residential use of this property would not be a good fit with the development potential of Fairgrounds Rd NW, and no guarantee can be placed that development allowed under a residential zoning district could properly isolate the residential character of the property from surrounding land uses.

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. There is ample room on this lot for appropriately sized replacement septic systems to be designed and installed, and individual wells can be installed to meet all required isolation distances, and existing septic and well are known to be compliant.

4. Whether the proposed amendment would correct an error in the application of this Ordinance.

No. This proposal would resolve an existing non-conforming use of a property, allowing the current owner more flexibility in re-developing the lot, but does not follow the goals of the comprehensive plan. Commercial uses fit best in areas within a frontage road and freeway corridor, while residential zones are best designed when the entire zone can be managed uniformly for traffic control, noise, and consistent distribution of utility services. Creating an intensification of residential use at this location could impact the remaining commercial properties along this corridor, imposing more mitigative standards on any re-development or intensification of use that may be planned in the future.

5. Whether the proposed amendment is made necessary because of change or changing conditions in the areas and zoning districts affected and, if so, the nature of such changed or changing conditions

Yes. The Greater Bemidji Area continues to change as development continues to move outwards from the City of Bemidji, and demand for single-family housing has increased. Retaining existing residential housing is ideal for keeping housing costs low and affordable, and the intensification towards mixed or commercial uses from residential may pose a housing supply problem.

Staff have also drafted examples of findings for approval, based on this rezone of the subject property, parcel 31.00441.00, from (B-1) Low Density Commercial to (R-2) Suburban Residential, which would allow continued re-development of the property for single-family residential use. Such a rezone action, if determined by the Commission to be appropriate for this case, is based on the following findings of fact:

Findings of Fact:

1. Whether the change in classification would be consistent with the intent and purpose of this Ordinance.

Yes. While the proposed future land use is not consistent with the immediately surrounding properties, it is consistent with the larger scale of surrounding zoning districts. Immediate properties along Fairgrounds Rd NW have been developed commercial and public gathering event spaces, but the intensification of single-family use is within the scope of the comprehensive plan and zoning ordinance when weighing housing needs over availability of commercially zoned land to be further developed.

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. While this area is currently made up of a mix of light commercial and residential uses, the existing commercial lots in the vicinity are may trend away from commercial use or are otherwise intermittent in intensity. Those areas are not adequately developed for ease of commercial repurposing, rearrangement or siting. Paving and utility sizing are costs that any commercial developer would need to internalize to increase development of the corridor, while further residential expansion meets area demand at a lower cost of development. Further establishing the residential use of this property would not be a good fit with the development potential of Fairgrounds Rd NW, but may be appropriate for current market conditions that act to limit commercial development while favoring residential housing demand.

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. There is ample room on this lot for appropriately sized replacement septic systems to be designed and installed, and individual wells can be installed to meet all required isolation distances, and existing septic and well are known to be compliant.

4. Whether the proposed amendment would correct an error in the application of this Ordinance.

Yes. This proposal would resolve an existing non-conforming use of a property, allowing the current owner more flexibility in re-developing the lot. The comprehensive plan notes that housing demand and population growth for the area has been higher than that of the comparison cities in such studies, and providing flexibility in zoning standards to allow renovation of existing housing stock has been highlighted under Objective 8.1. While commercial uses fit best in areas within a frontage road and freeway corridor, residential zones are best designed when the entire zone can be managed uniformly for traffic control, noise, and consistent distribution of utility services. When reviewing the immediate surrounding properties, the existing uses are low intensity commercial mixed with single-family residential building. Creating an intensification of residential use at this location could impact the remaining commercial properties along this corridor, shifting the dynamic of the neighborhood away from commercial development and resulting in a reduction in available property across the jurisdiction, however in broader review of the area in question there is a significant amount of residential use northwest and southeast of the proposed property. This residential band on the zoning map includes lower density districts, which conflict more with commercial development corridors, however suitable a highway corridor would be for such, and it is not uncommon in more rural residential settings to have freeway frontages.

5. Whether the proposed amendment is made necessary because of change or changing conditions in the areas and zoning districts affected and, if so, the nature of such changed or changing conditions.

Yes. The Greater Bemidji Area continues to change as development continues to move outwards from the City of Bemidji, and demand for single-family housing has increased. Retaining existing residential housing is ideal for keeping housing costs low and affordable, and the intensification towards mixed or commercial uses from residential may pose a housing supply problem.

Commission members had the following comments:

- Members discussed the proposed rezone.
- Phillips addressed the history of the property and noted that it was zoned commercial in 2007 when the zoning map was adopted.
- Members and Staff discussed commercial expansion.

Public Hearing opened at 6:13 p.m.

- Jacquelyn Moe addressed the Commission.

Public Hearing closed at 6:16 p.m.

Motion by Gould, second by Steffen, to approve a rezone of the subject property, 7493 Fairgrounds Rd NW, parcel 31.00441.00, from (B-1) Low Density Commercial to (R-2) Suburban Residential,

subject to the above stated findings of fact:

Commission members had additional comments:

- Members discussed the motion to approve.
- Members concurred that Staff's proposed findings of facts are sufficient.

Ayes: Chambers, Granlund, Gould, David, Steffen, Faver.

Nays: Lemmer, Heinonen, Berg.

Motion carried.

Phillips presented the second case:

PLANNING CASE – V-22-31.00875.00 – BRUCE NORD

Bruce & Susan Nord are requesting multiple variances in order to rebuild their lake home, which is a non-conforming dwelling on a substandard lot of record located at 820 Birchmont Beach Rd NE in Northern Township.

The requested variances are as follows:

1. A reduction in the minimum lot width of forty-five feet from the required one-hundred-foot lot width; and
2. A reduction in the minimum lot size of 8,142 square feet from the required 30,000 square foot lot size; and
3. A reduction for both minimum side-yard setbacks of one-and-one-half feet from the required ten-foot setbacks; and
4. A reduction in the minimum septic tank setback from property lines of five feet from the required ten-foot setback.

Bruce Nord has met with staff on a couple of occasions regarding this proposal to rebuild the existing dwelling on this lot and reconfigure their use of available space. In this case, the proposed redevelopment of the lot requires setback variances. The lot is also currently heavily developed with multiple accessory structures, and is exceeding the allowed impervious surface standard for the shoreland overlay.

The Nord's are proposing to remove the existing structures on the property and reconstruct a single structure to provide storage, parking, and dwelling needs. The new structure would be centered on the lot and built to the minimum width necessary to allow an efficient interior layout. Along with the reconstruction would be a new SSTS located at the rear of the lot, with the tank encroaching on the east property line to avoid structure setback issues. No variance is being requested for impervious surface over the maximum allowable with mitigation (31.25%) and as such conditions of this variance request will reflect that such mitigation plan cannot exceed 31.25% (6,831 sq. ft.) impervious.

Agency Comment

Mississippi Headwaters Board:

Staff conversed via phone with Tim Terrill of the MHB to discuss the specifics of the variance request.

MHB staff expressed appreciation that the proposed project would not encroach on the ordinary high-water mark setback.

MHB staff indicated that a stormwater mitigation plan, as initially described to JPB staff, would need to be outlined on the site plan and submitted to the full MHB before certification of the variance would be considered.

Beltrami County Highway Department:

Bruce Hasbargen stated that the Beltrami County Highway Department does not have any issues with the Nord's request.

Neighborhood Comment

Staff received comment from the following neighbors, all of which were in favor of the variance request

- Bonita Haley
- Sally and Steve Patterson
- Randy and Tina Ruttger

RECOMMENDATION & FINDINGS

Staff recommends approval of four variances in order to rebuild their lake home, located at 820 Birchmont Beach Rd NE in Northern Township. The variances are as follows:

1. A reduction in the minimum lot width of forty-five feet from the required one-hundred-foot lot width; and
2. A reduction in the minimum lot size of 8,142 square feet from the required 30,000 square foot lot size; and
3. A reduction for both minimum side-yard setbacks of one-and-one-half feet from the required ten-foot setbacks; and
4. A reduction in the minimum septic tank setback from property lines of five feet from the required ten-foot setback.

Approval recommended with the following conditions and findings of fact:

Conditions:

1. An erosion control plan shall be submitted and be in place before any construction commences on the property.
2. If tree removal or landscaping disturbance is necessary to accomplish the proposed work, a landscaping plan shall be submitted to the JPB for review, and any necessary shoreland alteration or tree removal permits obtained, before the land-use permit is issued.
3. All additional stormwater produced by impervious surface areas that exceed the allowable twenty-five (25) percent of the lot area must be contained and treated/mitigated onsite, and so a stormwater mitigation plan shall be provided by the landowner from a design professional to be approved by the Mississippi Headwaters Board at the time of variance certification. The allowable amount of impervious surface shall not exceed 31.25% of the lot area, which is 6,831 square feet.
4. The property owner must be issued an SSTS permit allowing replacement of the existing septic system to meet the requirements in §801 before occupying the new dwelling.
5. A land use permit shall be obtained prior to construction and demolition.
6. JPB site verification form and fee shall be submitted prior to construction.
7. Mississippi Headwaters Board Certification of the variance request must be obtained, as required by MN Statute 103F.373, prior to the effectiveness of this variance approval.
8. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of variance approval. 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.

Findings of Fact:

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

Yes. This is an existing lot of record that is currently developed and the surrounding area is heavily developed on substandard lots. The existing uses are well established on the lot, and would remain reasonable and allowable into the future. Any expansion of the structure to allow additional living space would be limited to areas within conforming setback locations, which would require more complex construction methods and site layouts to achieve for a similar square footage. To expand existing structures on this lot would result in piecemeal construction methods in order to stay in conformity with the ordinance. Such houses are much more difficult to maintain than more holistic architectural designs, and would present an undue burden to the homeowner that outweighs the potential benefit an additional one-and-one-half foot separation on the western property line may provide. The owner would be put under an undue hardship in order to meet the ordinance standards without the issuance of a variance.

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 that lacks the required lot width and area to allow contemporary forms of residential development.

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 improving the function of the existing space, including equalizing the side-yard encroachments between neighboring property lines while providing an overall narrower structure. While proper undisturbed space between structures would mitigate storm-water from this addition, the property owner has consulted design professionals to create a plan to mitigate and treat the additional storm-water in available areas of the lot, allowing infiltration for most typical rain events.

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

Yes. This reconstruction would not significantly change the appearance of the dwelling on the lot as viewed from the lake, would not change the overall character of the existing neighborhood, and would be utilized in a manner that is common for existing residential uses.

Commission members had the following comments:

- Members discussed the request for a variance.

Public Hearing opened at 6:30 p.m.

- Bruce Nord addressed the Commission and clarified that the dwelling would be a year-round dwelling and noted that their plan gets them closer to conformity specifically in regards to the side yard setbacks.

Public Hearing closed at 6:32 p.m.

Motion by Heinonen, second by Granlund, to approve four variances in order to rebuild their lake home, located at 820 Birchmont Beach Rd NE in Northern Township, subject to the above stated conditions and findings of fact.

Ayes: Chambers, Lemmer, Granlund, Heinonen, David, Steffen, Faver, Berg.

Nays: None.

Motion carried unanimously.

OTHER BUSINESS:

Ordinance Update:

Phillips addressed the Commission and presented the proposed ordinance update regarding Article VIII Sanitation Standards.

Commission members had the following comments:

- Members and Staff discussed.

DIRECTOR’S REPORT AND SITE ANALYST & ENFORCEMENT REPORT:

Carlson addressed that Joint Planning Board staff are currently located at the City of Bemidji Public Works building at 1351 5th St NW due to the flood in the City Hall basement flood. Carlson noted upcoming planning cases, and described year-to-date activity as well as completed, current and upcoming development projects, and described enforcement.

UPCOMING MEETING DATES:

June 8, 2022	6:00 pm	JPB Regular Meeting
June 15, 2022	5:00 pm	Joint LGU Meeting
June 23, 2022	6:00 pm	JPC Regular Meeting
July 13, 2022	6:00 pm	JPB Regular Meeting
July 28, 2022	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

There being no further business, motion by Granlund, second by Chambers, to adjourn the Regular Planning Commission meeting at 6:46 p.m. Motion carried.

Respectfully submitted,

Ainslee Krause
Administrative Assistant

Approved and attested by: _____
Joint Planning Commission Representative