

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

**Wednesday, February 14, 2018 REGULAR MEETING – 6:00 p.m.**

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

**A. MINUTES** **Chair**  
Approval of January 10, 2018 Minutes

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

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

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

**D. NEW BUSINESS**  
1. Northern Township – Ordinance 2018-01 - Z-18-31.00025.01 – Bernard Mistic **CB**

2. Northern Township- Resolution 2018-03 - V-18-31.00477.00; 31.02147.01; 31.01029.00 –  
Kathryn E Hill **CB**

**E. OTHER BUSINESS**

**F. DIRECTOR’S REPORT** **CM**

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

1. February 22, 2018	6:00 pm	JPC Regular Meeting
2. March 14, 2018	6:00 pm	JPB Regular Meeting
3. March 29, 2018	6:00 pm	JPC Regular Meeting
4. April 11, 2018	6:00 pm	JPB Regular Meeting

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

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**February 14, 2018**

Pursuant to due call and notice a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, February 14, 2018, at 6:00 p.m. in City Hall. Chair Meehlhause presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Erickson, Meehlhause, Frenzel, Hellquist (alternate), Blumhagen (alternate)

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

Staff present: Casey Mai, Cory Boushee, Terri Ball

Others in attendance: Katy Hill, Steve Hill, Matt Murray

Pledge of Allegiance was performed.

**AGENDA**

Motion by Frenzel second by Erickson to approve the agenda as presented.

Motion carried unanimously.

**MINUTES**

Motion by Frenzel, second by Blumhagen to approve the January 10, 2018 JPB minutes.

Motion carried unanimously.

**CONSENT AGENDA**

- 1) Bills for the total amount of \$15,719.84 were presented for payment.

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

Motion passed unanimously.

**VISITORS** - None addressed the board.

**NEW BUSINESS**

**ORDINANCE NO. 2018-01 - Z-18-31.00025.01 – BERNARD MISTIC**

Applicant is requesting to rezone his approximately eight (8) acre property located at the SW quadrant of the intersection of Wildwood Dr NE and Highway 71 NE in Northern Township from (C) Conservation to (R-2) Suburban Residential.

## **BACKGROUND**

The applicant approached staff to inquire about building a single family home on the proposed property, the property was recently purchased at an auction from Beltrami County. Even though this property is no longer held in public ownership, it still requires a zoning map amendment before a single family home could be constructed.

## **PLANNING CONSIDERATIONS**

At this time there is no certain proposed development. Staff feels there would be no issue in constructing a single family home on this parcel.

### Adjacent Zoning and Land Use

This property is a currently vacant lot with moderate tree cover. It is surrounded by low intensity residential development and (R-2) Suburban Residential zoning with the exception of Movil Maze County Recreation Area to the north across Trunk Highway 71 NE being zoned (C) Conservation.

### Neighborhood Comment

At the time of writing this report only one neighborhood comment was received to clarify the ownership of the property.

### Comprehensive Plan References

The goal of the comprehensive plan outlines the extensive public land within the Greater Bemidji Area as a benefit for preserving recreational and natural resource management. It was not intended to limit the use of private property ownership with the same protections as intended for conservation of public uses. This rezoning request is in keeping with the intent of the Greater Bemidji Area Land Use Plan.

## **RECOMMENDATION**

Staff recommends approval to rezone the property located at the SW quadrant of the intersection of Wildwood Dr NE and Highway 71 NE in Northern Township from (C) Conservation to (R-2) Suburban Residential.

Board members had no concerns or comments.

Motion by Hellquist, second by Blumhagen to rezone the property located at the SW quadrant of the intersection of Wildwood Dr NE and Highway 71 NE in Northern Township from (C) Conservation to (R-2) Suburban Residential with findings:

1. **Whether the change in classification would be consistent with the intent and purpose of this Ordinance.**  
Yes. This property is no longer reserved for public use and management; the proposed zoning change is consistent with the overall intent of the 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.**  
Yes. This area is primarily surrounded by low intensity residential development; continued low intensity development is consistent with the adjacent properties.
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. The proposed zoning district was designed to accommodate low intensity development with private well and septic systems.
4. **Whether the proposed amendment would correct an error in the application of this Ordinance.**  
Yes. The property is no longer managed for public use, rezoning will allow reasonable use of the property consistent with the surrounding land uses.
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 is no longer managed for public use and is held in private ownership.

Motion carried unanimously.

RESOLUTION NO. 2018-03 -V-18-31.00477.00;31.02147.01;31.01029.00 – HILL

Kathryn Hill is requesting a variance for a reduction of sixty-two (62) feet of the required one-hundred (100) foot ordinary high water level (OHWL) setback of Lake Bemidji, located at 7200 Birchmont Ct NE in Northern Township within the (R-3) Suburban Residential – Unsewered and Shoreland Overlay.

**BACKGROUND**

The applicant approached staff with a proposal to redevelop their lake lot on Lake Bemidji. The lot is currently developed with a nonconforming cabin, and a small guest cabin within the OHWL setback. The existing cabin is proposed to be removed and replaced with a larger cabin to accommodate year round living, the small guest cabin will remain on-site meeting setbacks but will no longer be allowed to function as a dwelling unit meaning it shall not have water or sewer services. The applicants have asked to leave it as a playhouse on the property.

## **PLANNING CONSIDERATIONS**

The applicant has submitted a letter explaining why they believe that this is a reasonable request and that a practical difficulty does exist.

It will be up to the JPC to analyze whether or not they also feel that a practical difficulty does exist here. If this property were to be completely redeveloped with every building removed, or if it were to be required that every building be removed it is very probable that a new home could be built meeting all requirements. However, this would likely create a tunneling effect resulting in a new home being constructed behind all adjacent homes and a view of garages and cabins, not Lake Bemidji alone. This tunneling effect could likely be mitigated through vegetation planting or fencing, but this may alter the character of how current development is in the area. It is likely this part of the lake shore will maintain this character into the future.

The long term effects of approving variances like this are that the shoreland will never become compliant with zoning and shoreland regulations overtime. The main theory on zoning and the allowed continuation of nonconforming uses is that someday they will eventually become compliant with the regulations.

### Existing Conditions

This area of Lake Bemidji was previously developed with substandard setback to Lake Bemidji, some development happened before stricter shoreland rules came into place, and some were approved by variance applications. Typically, to rebuild structures or remodel structures with a similar distance to the lake as what was existing on-site. The existing cabin and deck on this property are thirty-three (33) feet from Lake Bemidji, as the proposed cabin would be a five (5) foot improvement to thirty-eight (38) feet. Through the combination of three (3) parcels, this property will meet the lot size requirements. Typically, a variance for substandard lots is necessary in this area of Lake Bemidji. Combining these lots and not granting a substandard lot variance will eliminate potential for continuous development along Birchmont Court.

### OHWL Setback

Ordinary High Water Level (OHWL) setbacks are established statewide to protect the natural shoreland, manage the effects of shoreland development, maintain existing property values, as well as protect surface waters from runoff and pollution. Protecting the natural shoreland is important for two main reasons; one (1) the natural shoreland is a diverse ecological area susceptible to erosion and pollution, two (2) it is important that the natural view from public waters to the natural shoreland be maintained for the enjoyment of the public water.

JPB staff is requesting that the applicant add natural vegetation to the existing rip-rap shoreline; this will increase the ability of the rip rap to prevent erosion and will act as a

vegetative buffer and reduce pollution from stormwater run-off. Staff will also request that at least three (3) native trees or shrubs be added to a landscaping plan to break up the view of the structure from the public water. JPB staff would work closely with the applicant and the MnDNR to ensure that the shoreline stabilization would be completed correctly. As an added measure the JPC could also request that the applicant maintain a ten (10 to fifteen (15) foot buffer area along the shoreline that is not maintained or mowed along the entire shoreline with the exception of a twenty (20) foot access area . It can be left to grow and naturally restore itself, or native plantings could be installed to create a natural shoreline.

With the preservation of the existing trees, the addition of new trees and shrubs, guttering of stormwater away from the lake for infiltration, increasing the distance of the septic system from the lake and with the existing rip-rapped shoreline it is not anticipated that this project will have negative impacts on the surface waters of Lake Bemidji.

#### JPB Engineer – Karvako, P.A.

- On sheet 2/3 there is a discussion about the gutter downspouts and I agree with those comments. Maximizing the vegetated buffer between the stormwater discharge point and the receiving water is very important for infiltration. Getting the water into the ground (infiltration) reduces the temperature at which it enters Lake Bemidji and helps maintain natural water temps.
- Exposed soils during construction pose a threat to Lake Bemidji in that if there is a storm event, the erodible soil discharge could be significant with the sediment plume it sends into the lake. I recommend a double Sediment Control Log perimeter barrier between the construction work and the lake. The MPCA requires a redundant (double) perimeter control setup on construction projects this close to waters.
- Birchmont Ct NE is an existing roadway so there won't be a significant change in the hydraulic scenario that is there today, aside from the new impervious building and any driveway work.

#### Neighborhood Comment

At the time of writing this report no neighborhood comment was received.

#### Comprehensive Plan References

Through mitigation efforts to ensure additional stormwater is not directed towards Lake Bemidji, increasing distance of septic system to Lake Bemidji, preserving existing trees in the shoreland, maintaining a shoreland protected from erosion, and limiting backlot development this proposal is maintaining or enhancing the overall environmental quality

of the Greater Bemidji Area and is consistent with the spirit, purpose, and intent of the Greater Bemidji Area Land Use Plan.

### **RECOMMENDATION**

Staff recommends approval of a variance for a reduction of sixty-two (62) feet of the required one-hundred (100) foot OHWL setback of Lake Bemidji, located at 7200 Birchmont Ct NE in Northern Township within the (R-3) Suburban Residential – Unsewered and Shoreland Overlay. Approval recommended with the following conditions:

1. Any proposed building or impervious surface on-site will be construction staked by a professional surveyor to ensure accuracy and to mitigate chance for setback encroachment, or increase of impervious surface.
2. An erosion control plan will be reviewed and approved by JPB; this erosion control plan shall be installed before any construction or demolition may occur on-site. It will also include the obliterated and proposed septic system areas. Also as noted in engineering comments a double sediment control log meeting standards of MPCA will be installed along the lake shore.
3. The proposed gutter system directing stormwater runoff away from Lake Bemidji shall be installed as shown on the site plan.
4. A landscape plan will be provided to be reviewed and approved by JPB to include plantings for shoreland stabilization, size, type, and location of three (3) proposed native trees or shrubs prior to approval of a land use permit.
5. A ten (10) foot vegetative buffer area along the shoreline that is not maintained or mowed along the entire shoreline with the exception of a twenty (20) foot access area to the lake.
6. Applicant's lots shall be legally combined and recorded with the county.

Board members had the following concerns:

- Frenzel asked what the ten (10) foot vegetative buffer would consist of. Staff stated applicant could quit mowing and let grass grow naturally, or till area and plant native grasses and plants. Frenzel questioned presence of rip-rap. Staff explained it is in place but will be enhanced by natural vegetation. Frenzel commented that he would not be happy if his neighbor stopped mowing his grass, and thinks applicant's neighbors would not like the vegetation either.
- Erickson asked staff to name other areas along the lakeshore that are unmowed, and questioned if any of them are because of a similar requirement. Staff stated some areas along the east side of the lake have natural vegetation but were not required to do so. Erickson further asked if staff will make this requirement a common practice for future applicants or if this is the first homeowner to have this condition. Staff explained it could become an ordinance update if directed by the board, otherwise every request is different. Erickson is not in favor of this condition for vegetative buffer if it is not consistently required of each applicant.

Steve Hill, representing Kathryn Hill, was granted a moment to address the board, by Chair Meehlhause. (6:26 pm) Hill stated that staff did not recommend the vegetative buffer and he is willing to comply fully with staff recommendations, but not the ten (10) foot buffer that was an added condition at the JPC meeting.

- Meehlhause asked if the Mississippi Headwaters Board (MHB) commented on specific types of native plants to use. Staff replied that they simply requested vegetative buffer and trees.
- Erickson stated the reason the JPB puts restrictions in place is to guard against daily practices that endanger Lake Bemidji, and this project does not bring more risk than any other neighboring property.
- Frenzel commented that the structure is being moved back another five (5) feet from Lake Bemidji, so a greater effort should instead be made with rip rap vegetation. Frenzel also stated it is unrealistic for the JPB to ask one person to comply with requirements when several homes have already been developed without them.
- Erickson asked about septic installation as mentioned briefly in the Comprehensive Plan section of the planning report. Staff explained the old septic system will be removed from the current location on the west side of Birchmont Court, and the new system will be placed on the other side of Birchmont Court. A new septic is a common requirement for new home building permit.

Motion by Erickson, second by Frenzel to approve a variance for a reduction of sixty-two (62) feet of the required one-hundred (100) foot OHWL setback of Lake Bemidji, located at 7200 Birchmont Ct NE in Northern Township within the (R-3) Suburban Residential – Unsewered and Shoreland Overlay with the following conditions:

1. Any proposed building or impervious surface on-site will be construction staked by a professional surveyor to ensure accuracy and to mitigate chance for setback encroachment, or increase of impervious surface.
2. An erosion control plan will be reviewed and approved by JPB; this erosion control plan shall be installed before any construction or demolition may occur on-site. It will also include the obliterated and proposed septic system areas. Also as noted in engineering comments a double sediment control log meeting standards of MPCA will be installed along the lake shore.
3. The proposed gutter system directing stormwater runoff away from Lake Bemidji shall be installed as shown on the site plan.
4. A landscape plan will be provided to be reviewed and approved by JPB to include plantings for shoreland stabilization, size, type, and location of three (3) proposed native trees or shrubs prior to approval of a land use permit.
5. Applicant's lots shall be legally combined and recorded with the county.

And findings:



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

Yes. This is an existing developed site that the applicant wishes to enhance; it would not be reasonable to require a new structure to be built behind all existing structures further from Lake Bemidji creating a tunneling effect and not allowing the applicant the same use of their property as neighboring developed lots. Furthermore, setting the new home back further would require an existing structure to be destroyed.

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

Yes. This area has seen continuous new development, redevelopment, and remodeling of existing structures. Whether through a variance or construction before shoreland ordinances this area has been developed and is anticipated to maintain being developed with a significant deficiency in OHWL setback requirements.

**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. Through mitigation efforts the proposal will maintain or enhance environmental quality, no adverse safety or public health impacts are anticipated, and no adverse effects on adjacent properties are anticipated.

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

Yes. The request is to allow for the structure to be placed in similar location with other structures in the neighborhood, meeting the setback would require the proposed structure to be built behind all adjacent structures.

Roll call vote:

Ayes: Blumhagen (alternate), Hellquist (alternate), Frenzel, Meehlhause, Erickson.

Nays: None

Abstain: None

Absents: Albrecht (utilized alternate), Kelly (utilized alternate)

Motion carried unanimously.

OTHER BUSINESS – None.

DIRECTOR'S REPORT

Mai identified the upcoming planning cases, the recent progress on development projects, and then summarized the CPAW Conference that he attended January 23-25 in Boulder Colorado. Mai's report is included in the packets.

Mai has been working with Jeff Lutz of Houston Engineering since the departure of Larry Kramka. Lutz has offered to conclude the Comprehensive Plan for an additional estimated \$4000. Board members discussed with Mai and requested a clear and detailed breakdown of the proposal, then gave approval to work with Ron Eischens for payment from reserve account.

UPCOMING MEETING DATES:

February 22, 2018	-- JPC Regular Meeting @ 6:00 p.m.
March 14, 2018	-- JPB Regular Meeting @ 6:00 p.m.
March 29, 2018	-- JPC Regular Meeting @ 6:00 p.m.
April 11, 2018	-- JPB Regular Meeting @ 6:00 p.m.

ADJOURNMENT:

There being no further business, motion by Hellquist, second by Erickson to adjourn the Joint Planning Board meeting at 6:55 PM.

Motion carried unanimously.

Respectfully submitted,  
Terri Ball  
Planning Assistant

JPB Minutes Approved and attested by:   
Joint Planning Board Representative