

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

Thursday, November 17, 2022  
6:00 P.M.

**Bemidji City Hall 317 4<sup>th</sup> 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, October 27, 2022 Regular Meeting**

**NEW BUSINESS**

- 1. **Visitors** **Chair**

**Public Hearings**

- 1. **City of Bemidji – IUP-22-31.02144.00 – Verizon Wireless** **JC**

**OTHER BUSINESS**

- 1. **Director’s Report and Site Analyst & Enforcement Report** **JC**
- 2. **Upcoming Meetings** **Chair**
  - December 14, 2022 6:00 pm JPB Regular Meeting
  - December 22, 2022 6:00 pm JPC Regular Meeting
  - January 11, 2023 6:00 pm JPB Regular Meeting
  - January 26, 2023 6:00 pm JPC Regular Meeting
- 3. **Adjourn** **Chair**

# JPC MINUTES

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

**October 27, 2022  
6:00 p.m.**

**Council Chambers / ~~Cisco-WebEx~~  
317 4<sup>th</sup> St NW**

\*Staff noted that due to technical difficulties, the meeting would not be available to join via WebEx\*

**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, Lemmer, Chambers.

**MEMBERS ABSENT:** Gould.

**STAFF PRESENT:** Assistant Planner Nickolaus Phillips, Administrative Assistant Ainslee Krause.

**OTHERS:** James Humeniuk, Auralee (Jean) Humeniuk, Will Hartwell, Rich Siegert.

**APPROVAL OF AGENDA:**

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

**APPROVAL OF MINUTES:**

Motion by Granlund, second by Steffen, to approve the minutes from the September 29, 2022, Greater Bemidji Area Regular Joint Planning Commission as presented. Motion carried unanimously.

**VISITORS WITH BUSINESS NOT ON THE AGENDA:**

Will Hartwell, 812 Clausen Ave SW, requested clarification on the withdrawn case on the agenda. Staff addressed the case was withdrawn and the case will not be coming before the Commission. Hartwell noted that he was present to express concern over keeping the trees on the property.

**NEW BUSINESS:**

**Public Hearings:**

**Phillips presented the first case:**

**PLANNING CASE-V-22-80.07077.00-JAMES & AURALEE HUMENIUK**

James & Auralee (Jean) Humeniuk are requesting three after-the-fact variances in order to retain their 12' x 16' accessory storage structure on their lot located at 6007 Shady Lane NE within the City of Bemidji. This parcel lies within the (R-3) Suburban Residential Zoning District and Shoreland Overlay. The requested variances are as follows:

- 1) A reduction of 18.5 feet from the required 20 foot roadway structure setback per §901D(1)
- 2) A reduction of 6.5 feet from the required 10 foot side yard structure setback per §901D(1)
- 3) An increase of 13.8%, or 2,189 square feet, of impervious surface over the maximum allowable of 25%, or 3,953 square feet, per §901C

**RECOMMENDATION & FINDINGS**

Staff recommends denial of the requested variances in order to retain the accessory structure at its current location at 6007 Shady Lane NE. Denial recommended with the following findings of fact:

### **Findings of Fact:**

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

**No.** The applicant has not provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks. Staff believe that the difficulty arises from the owner's past choice in placement and additions to the single-family dwelling.

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

**No.** While this is a previously platted and developed lot within the shore land overlay, with limited space to meet the required setbacks, a past variance allowing the dwelling at a 48' setback has allowed establishment of the primary use of the parcel without sacrificing all buildable areas available to the owner.

#### **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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

### **Public Hearing opened at 6:11 p.m.**

- Rich Siegert, 5930 Birchmont Dr NE, addressed the Commission. Siegert identified that he has no issues with where the shed is placed.
- Auralee Jean Humeniuk, 6007 Shady Ln NE, addressed the Commission and presented documentation to the Commission regarding the timeline of events and explained their understanding of compliance with the ordinance. Humeniuk noted that the shed was specifically positioned on their old septic drain-field.
- Applicants and commission members discussed placement of the shed and pervious pavers.

### **Public Hearing closed at 6:41 p.m.**

### **Commission members had the following comments:**

- Lemmer and Chambers discussed pavers. Phillips noted the need for documentation of the pervious pavers being installed correctly.
- Humeniuk identified that she could obtain documentation of the pervious pavers and provide it to staff.
- Granlund suggested a motion to approve the three variances.
- Members discussed the comment from Public Works addressing that the placement of the shed does not present the department with maintenance issues.
- Staff and members discussed conditions and findings of fact for approval.

Staff presented proposed conditions and findings of fact for approval:

### **Conditions:**

1. All surface area of impervious surface above the allowed amount within the shoreland zone shall have onsite stormwater mitigation for that excess area via a stormwater mitigation plan approved by the administrator. Such mitigation strategies shall be documented and installed according to manufacturer or Minnesota Pollution Control Agency best management practices, as found in the Minnesota Stormwater Manual. Documentation of such methods shall be submitted to the administrator, and a maintenance plan for those stormwater features shall also be included.

2. The property owner shall plant (insert number of) trees in the shore impact zone along the east side of the property, and shall maintain and replace as may be necessary such plantings for a period of at least (insert number of) years to ensure proper establishment.
3. The variance shall expire and become void if the conditions listed above are not completed within twelve (12) months from its date of variance approval. The Joint Planning Board may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

**Findings of Facts:**

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

**Yes.** The applicant has provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks.

**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 within the shore land overlay, with limited space to meet the required setbacks.

**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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

Motion by Granlund, second by Faver, to approve the requested variances in order to retain the accessory structure at its current location at 6007 Shady Lane NE subject to the following conditions #1 and #3 provided by staff and findings of facts:

**Conditions:**

1. All surface area of impervious surface above the allowed amount within the shoreland zone shall have onsite stormwater mitigation for that excess area via a stormwater mitigation plan approved by the administrator. Such mitigation strategies shall be documented and installed according to manufacturer or Minnesota Pollution Control Agency best management practices, as found in the Minnesota Stormwater Manual. Documentation of such methods shall be submitted to the administrator, and a maintenance plan for those stormwater features shall also be included.
3. The variance shall expire and become void if the conditions listed above are not completed within twelve (12) months from its date of variance approval. The Joint Planning Board 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.** The applicant has provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks.

**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 within the shore land overlay, with limited space to meet the required setbacks.

**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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

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

Nays: Lemmer, Heinonen.

Motion carried.

**OTHER BUSINESS:**

**DIRECTOR'S REPORT AND SITE ANALYST & ENFORCEMENT REPORT:**

Phillips presented the Director's Report and Site Analyst & Enforcement Report.

**UPCOMING MEETING DATES:**

November 9, 2022	6:00 pm	JPB Regular Meeting
November 17, 2022	6:00 pm	JPC Regular Meeting
December 14, 2022	6:00 pm	JPB Regular Meeting
December 22, 2022	6:00 pm	JPC Regular Meeting

**ADJOURNMENT:**

There being no further business, motion by Heinonen, second by Lemmer, to adjourn the Regular Planning Commission meeting at 7:09 p.m. Motion carried.

Respectfully submitted,

Ainslee Krause  
Administrative Assistant

Approved and attested by: \_\_\_\_\_  
Joint Planning Commission Representative

# **JPB MINUTES**

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**November 9, 2022**

Pursuant to due call and notice, a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, November 9, 2022. Chair Jorge Prince called the meeting to order at 6:00 pm and roll call was taken.

Upon roll call, the following members were declared present: Prince, Thayer, Peterson, Lahn, Frenzel.

Members absent: None.

Staff present: Planning Director Jamin Carlson, Planning Administrative Assistant Ainslee Krause, Assistant Planner Nick Phillips.

Others in attendance: Matthew Roberts, CT Marhula, Linda Bertrand, Erin Bertrand.

Pledge of Allegiance was performed.

**AGENDA**

Motion by Prince to add an item under Other Business, for a brief discussion of the process for the dissolution of the JPB. Second by Frenzel. Motion carried.

Motion by Peterson, second by Thayer, to approve the amended agenda. Motion carried unanimously.

**MINUTES FROM AUGUST 10, 2022**

Prince addressed that the minutes from August 10, 2022 in the presented packet had been amended by staff with changes on page three (3) of seven (7). Phillips confirmed.

Motion by Thayer, second by Lahn, to approve the August 10, 2022 minutes as amended. Motion carried.

Abstentions: Frenzel.

**MINUTES**

Motion by Peterson, second by Thayer, to approve the October 12, 2022 minutes as presented. Motion carried unanimously.

**CONSENT AGENDA**

- 1) Bills for the total amount of **\$7,008.28** were presented for payment.
- 2) 2023 Fee Schedule – **Ordinance No. 2022-08**

Motion by Frenzel, second by Peterson, to approve the consent agenda. Motion carried unanimously.

**VISITORS WITH BUSINESS NOT ON THE AGENDA:**

CT Marhula, 4524 Birchmont Dr NE #10, Bemidji, addressed the Board and expounded on concerns. Marhula addressed his concerns with the sixty-day timeline of a past case, and his issue with how a past case was presented to the board.

**NEW BUSINESS:**

**RESOLUTION 2022-22 – V-22-80.07077.00 – JAMES & AURALEE HUMENIUK**

James & Auralee Humeniuk are requesting three after-the-fact variances in order to retain their 12'

x 16' accessory storage structure on their lot located at 6007 Shady Lane NE within the City of Bemidji. This parcel lies within the (R-3) Suburban Residential Zoning District and Shoreland Overlay. The requested variances are as follows:

- 1) A reduction of 18.5 feet from the required 20 foot roadway structure setback per §901D(1)
- 2) A reduction of 6.5 feet from the required 10 foot side yard structure setback per §901D(1)
- 3) An increase of 13.8%, or 2,189 square feet, of impervious surface over the maximum allowable of 25%, or 3,953 square feet, per §901C

#### STAFF RECOMMENDATION & FINDINGS

Staff recommends denial of the requested variances in order to retain the accessory structure at its current location at 6007 Shady Lane NE. Denial recommended with the following findings of fact:

##### Findings of Fact:

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

**No.** The applicant has not provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks. Staff believe that the difficulty arises from the owner's past choice in placement and additions to the single-family dwelling.

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

**No.** While this is a previously platted and developed lot within the shore land overlay, with limited space to meet the required setbacks, a past variance allowing the dwelling at a 48' setback has allowed establishment of the primary use of the parcel without sacrificing all buildable areas available to the owner.

**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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

#### JPC RECOMMENDATION & FINDINGS

JPC recommends approval of the requested variances in order to retain the accessory structure at its current location at 6007 Shady Lane NE, with the following conditions and findings of fact:

##### Conditions:

1. All surface area of impervious surface above the allowed amount within the shoreland zone shall have onsite stormwater mitigation for that excess area via a stormwater mitigation plan approved by the administrator. Such mitigation strategies shall be documented and installed according to manufacturer or Minnesota Pollution Control Agency best management practices, as found in the Minnesota Stormwater Manual. Documentation of such methods shall be submitted to the administrator, and a maintenance plan for those stormwater features shall also be included.
- ~~2. The property owner shall plant \_\_\_\_\_ trees in the shore impact zone along the east side of the property, and shall maintain and replace as may be necessary such plantings for a period of at least \_\_\_\_\_ years to ensure proper establishment.~~

3. The variance shall expire and become void if the conditions listed above are not completed within twelve (12) months from its date of variance approval. The Joint Planning Board 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.** The applicant has provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks.

**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 within the shore land overlay, with limited space to meet the required setbacks.

**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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

**BOARD DISCUSSION AND DECISION**

Board members had the following comments:

- Prince inquired as to the Commission's reasoning behind not including the condition regarding trees. Staff noted Commission member Faver addressed that there was no nexus to require the screening as screening does not relate to setbacks.
- Members and Staff discussed history, variance process, screening requirements and trees.
- Prince inquired about the reasoning for Commission members who voted to deny the variance. Phillips noted those against referenced the findings of fact question #2.
- Frenzel noted the expectation to bring properties closer to conformity in specifying conditions.
- Members discussed the case and shoreland screening requirements.

Motion by Lahn, second by Peterson, to approve Resolution 2022-22 approving three variances in order to retain the accessory structure at its current location at 6007 Shady Lane NE, with the proposed findings of fact from the Joint Planning Commission and conditions amended to include condition #2: The property owner shall plant 3 trees in the shore impact zone along the east side of the property, and shall maintain and replace as may be necessary such plantings for a period of at least 3 years to ensure proper establishment.

**Findings of Fact:**

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

**Yes.** The applicant has provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks.

**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 within the shore land overlay, with limited space to meet the required setbacks.

**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 similar to residential uses in the surrounding area.

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

**Yes.** This neighborhood has seen development on small lots that necessitates deviation from typical residential layouts, and to realize many typical residential accessory uses in a manner that makes sense to the owner of the property, atypical layouts are often necessary.

**Amended Conditions:**

1. All surface area of impervious surface above the allowed amount within the shoreland zone shall have onsite stormwater mitigation for that excess area via a stormwater mitigation plan approved by the administrator. Such mitigation strategies shall be documented and installed according to manufacturer or Minnesota Pollution Control Agency best management practices, as found in the Minnesota Stormwater Manual. Documentation of such methods shall be submitted to the administrator, and a maintenance plan for those stormwater features shall also be included.
2. The property owner shall plant 3 trees in the shore impact zone along the east side of the property, and shall maintain and replace as may be necessary such plantings for a period of at least 3 years to ensure proper establishment.
3. The variance shall expire and become void if the conditions listed above are not completed within twelve (12) months from its date of variance approval. The Joint Planning Board may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Board members had additional comments:

- Thayer requested clarification on landscaping requirements. Staff noted that the shoreland screening requirements within the Ordinance are from state shoreland rules.

Ayes: Frenzel, Lahn, Peterson, Thayer, Prince.

Nays: None.

Motion carried unanimously.

**OTHER BUSINESS**

**Formal Review of Resolution 2019-43 – Waste Management IUP**

Staff presented the current status of the interim Use Permit for Waste Management. Staff addressed the concerns from complainants and presented a proposed Interim Use Permit Amendment based on complainant's recommendations for resolving their issues.

Board members had the following comments:

- Frenzel and staff discussed the interim use permit and screening.
- Members and staff discussed condition regarding annual review.

Motion by Peterson, second by Frenzel, to approve Resolution 2022-23 for an amendment to an interim use permit for continuation of operating a heavy truck equipment and truck maintenance shop and an empty refuse container storage site at 4107 Minnkota Ave NW.

Ayes: Frenzel, Lahn, Peterson, Thayer, Prince.

Nays: None.

Motion carried unanimously.

### **Formal Review of Resolution 2019-17 – Roberts – V and CUP**

Staff presented the current status of the Variance and Conditional Use Permit for Matthew Roberts. Staff addressed concerns and presented a proposed amended conditional use permit with an extended timeline.

Board members had the following comments:

- Peterson inquired about modifying the timeline for the parking lot and extending it by an additional 30 days later than the timeline recommended by staff.
- Frenzel inquired of the applicant about the reasonableness of the timeline. Roberts addressed that removal of the building was feasible, but the completion of the landscaping and parking lot would be weather dependent.
- Members and staff discussed a potential extension and other outcomes.
- Prince inquired of the applicant's feasibility to meet the timelines proposed by staff. Roberts confirmed that meeting those timelines would be possible.
- Members and staff discussed a new timeline specifying the removal of the building be completed by April 30, 2023, and the parking lot and landscaping be completed by June 30, 2023.

Motion by Peterson, second by Thayer, to approve Resolution 2022-25 for an amendment to a Conditional Use Permit with the amended date of June 30, 2023 for parking lot completion.

Ayes: Frenzel, Lahn, Peterson, Thayer, Prince.

Nays: None.

Motion carried unanimously.

### **Approval of 2023 Budget**

Carlson presented the proposed 2023 JPB Budget.

Board members had the following comments:

- Prince inquired as to what the balance of the reserves at the end of 2023. Carlson addressed that the balance of the reserves could potentially be around \$150,000.
- Frenzel requested that staff keep track of the budget throughout the year.
- Frenzel and Prince addressed that neither Northern Township nor City Council of Bemidji have approved their final budgets for 2023.

Motion by Frenzel, second by Peterson, to approve Resolution 2022-24, for the approval of the 2023 JPB Budget, conditional on final approval of budgets for the participating LGUs.

Ayes: Frenzel, Lahn, Peterson, Thayer, Prince.

Nays: None.

Motion carried unanimously.

### **Discussion on the Dissolving of the Greater Bemidji Area Joint Planning Board**

Prince addressed that City Council held a work session regarding this topic, and voted to accept Northern Township's request to withdraw. Prince also noted that City Council had discussed dissolving the GBAJPB sooner than the requested December 31, 2024 end date.

Board members had additional comments:

- Members discussed process, and proposed scheduling a committee meeting or Joint LGU meeting for the two entities.

- Members tentatively scheduled a meeting on November 30, 2022 at 4:00 pm at City Hall for a meeting of the committee to discuss the dissolution of the GBAJPB.

**DIRECTOR’S REPORT AND SITE ANALYST & ENFORCEMENT REPORT**

Carlson presented the Director’s Report to the Board.

Board members had the following comments:

- Prince inquired as to the change in the site plan of the new Caribou Coffee. Staff noted that after going through JPB approval, the property’s site plan changed as MnDOT approved full ingress-egress access at both accesses on Paul Bunyan Dr NW and Bemidji Ave N.

**SITE ANALYST AND ENFORCEMENT REPORT**

Carlson presented the Site Analyst and Enforcement Report to the Board.

Board members had the following comments:

- Members and staff discussed enforcement cases.

**UPCOMING MEETING DATES**

November 17, 2022	6:00 pm	JPC Regular Meeting
December 14, 2022	6:00 pm	JPB Regular Meeting
December 22, 2022	6:00 pm	JPC Regular Meeting
<b>January 11, 2023</b>	<b>6:00 pm</b>	<b>JPB Regular Meeting</b>

**ADJOURNMENT**

There being no further business, motion by Frenzel, second by Thayer, to adjourn the Joint Planning Board meeting at 7:38 p.m. Motion carried.

Respectfully submitted,

Ainslee Krause  
 Planning & Building Administrative Assistant

JPB Minutes approved and attested by: \_\_\_\_\_  
 Joint Planning Board Representative