



Historic Courthouse  
635 2<sup>nd</sup> Street SE  
Milaca, MN 56353

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*Zoning Office*

## Minutes

### MILLE LACS COUNTY BOARD OF ADJUSTMENT Mille Lacs County Courthouse May 23rd, 2022 7:00 p.m.

Members Present: Amy Birnbaum, Loren Lueck, Kyle Weimann, John Roxbury Jr.

Members Absent: None

Ex-officio Members Present: Brandon Reinking, Deputy Zoning Administrator, Keenan Hayes, Zoning Administrator

Others Present: None.

- I. Call to Order: The meeting was called to order at 7:01 p.m. by Mr. Roxbury.
- II. Pledge of Allegiance: Mr. Roxbury led those present in the Pledge of Allegiance.
- III. Approval of the Minutes: Motion by Mr. Lueck, seconded by Mrs. Birnbaum, to approve the February 28<sup>th</sup>, 2022 meeting minutes. All members voted aye. Motion carried.
- IV. Old Business:  
  
None.
- V. New Business:

#### Consideration of a Request by Richard Smoley (owner):

- Reduce the minimum Septic Tank setback from a property line from ten (10) feet to seven (7) feet. **MN Rules 7080.2150 Table VII.**

to allow the septic tank to be capped and turned into a compliant holding tank on the parcel legally described as Parcel 1: Lot Nine (9), in Block Ten (10) and Lot 9 Block 10a and Fractional Lot 9 in Block 13, Sandum's Vineland Bay as vacated, Mille Lacs County, Minnesota, except that part of Lot 9, Block 13 taken by the State of Minnesota for Trunk Highway No. 169. Parcel 2: That part of Lakeview Drive in Government Lot 4, Section 3, Township 42, Range 27 lying between Lot 9, Block 10 and Lot 9 Block 13 in Sandum's Vineland Bay as vacated, Mille Lacs County, Minnesota. **Located at 15877 Twilight Rd, Onamia, MN 56359.** PIN 09-800-0510.

Applicant Rick Smoley is there to describe the request and states that the Zoning Office is requiring the variance to permit the septic tank to be converted into a holding tank.

Written correspondence:

5/18/2022  
James and Cheryl Jernberg  
15865 Twilight Rd.  
Onamia, Mn 56359  
320-241-2401  
320-241-0517

We are adjoining neighbors to Richard Smoley.  
We agree with reduction of set back to 7ft.  
Sounds like compliance will be met on existing tank and capped.  
We agree with request from Richard Smoley.

Thank you  
Jim and Cheryl Jernberg

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

*A. The variance proposes the use of land in a reasonable manner;*

The applicant is proposing a reasonable use of the property.

*B. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;*

The plight of the landowner appears to be due the location of the septic tank in relation to the corrected property line.

*C. The variance, if granted, will not alter the essential character of the area;*

Granting the variance should not alter the essential character of the area.

*D. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and*

Economic considerations do not appear to be part of the request.

*E. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

No further discussion.

**Motioned by Mr. Lueck to approve the variance as requested – Seconded by Mr. Weimann**

**All in favor.**

**Motion carried.**

Consideration of a Request by Eric Peterson (owner):

- Reduce the minimum building setback from Ordinary High-Water Line of Mille Lacs Lake from seventy-five (75) feet to fifty (50) feet. **MLCDO Table 501.**

to allow the construction of a new residence on the parcel legally described as Lots 26, 27 & 28 of Block B, of Waldemere, Except all that part of Lots 26, 27, & 28, Block B Waldemere according to the plat there of on file and of record in the office of the Register of Deeds within and for said Mille Lacs County, Minnesota, described as follows: Beginning at the Southwest corner of Lot 25, Block B, Waldemere, thence in a Northeasterly direction along and upon the Southeasterly boundary line of said Lot 25 a distance of 125 feet; thence in a Southeasterly direction at right angles across Lot 26, 27 & 28, Block B Waldemere, to the Southeasterly boundary line of said Lot 28; thence in a Southwesterly direction along and upon the irregular boundary line of said Lot 28 to the most Southwesterly corner thereof; thence in a Northwesterly direction along and upon the Southwesterly boundary line of said Lot 26, 27 & 28 a distance of approximately 203.7 feet to the Southwest corner of Lot 25, the same being the point of beginning. Together with easement for vehicular and pedestrian travel as contained in deed filed in book 108 deed, page 289, document no. 153378. **Located at 6962 Blair Way, Wahkon, MN 56386.** PIN 08-920-0030.

Mr. Peterson is in attendance and explains why they are requesting the variance and that due to the uniqueness of the property, it should be allowed. He states that the manmade harbor, septic system location and having shoreline on two sides of the parcel create a practical difficulty for the variance.

Mr. Peterson also states that a portion of the parcel is located in the flood plain and some of the area has been removed by a LOMA, however some potential flood risk remains and that in order to limit the flood risk they need to encroach on the OHWL setback.

Mr. Roxbury asks if they are moving any closer to the lake than the existing structure and Mr. Peterson confirms the new proposed structure will be further away from the natural shoreline than the existing cabin.

Written correspondence:

Dear Sir:

I believe the current rules and regulations currently in place should be respected to protect our natural resources. We have many pedestrians walking and changing the

road to allow for more vehicular travel will cause safety issues for all. Therefore, I am against Eric Peterson's request for changing the setback from Mile Lacs Lake Ordinary High-Water Line from 75 feet to 50 feet. MLCDO Table 501, for a new structure and the easement for vehicular and pedestrian travel.

Jeanne Hogan Lake Homeowner for 45 years  
6882 Blair Way  
Wahkon, MN 56386

Brandon,

I built a new home just to the west of Mr. Petersons property as was at that time you could not go closer to the shore per 75ft highwater mark.

Leaving a wall on the existing structure was not an option or a grandfathered way to be closer to the shoreline.

In other words I was told you have to be no closer then the water mark 75ft set back. Other new homes have been built and the same high-water mark set back had to be followed.

I believe this should be the same for the Peterson property.

Also to protect the structure from spring ice flow damage the 75ft set back would be beneficial to them.

The 75ft high-water mark set back rule should be held to this property.

Roger Stanaway  
7252 Blair way  
Wahkon, Mn

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

*F. The variance proposes the use of land in a reasonable manner;*

The applicant is proposing a reasonable use of the property.

*G. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;*

The plight of the landowner appears to be due the location of the harbor and flood zone. The harbor cuts into the parcel resulting in a limiting of the ability to meet the 75-foot OHWL setback. The area that was removed by the LOMA in 2013 mostly falls within the 75-foot OHWL setback.

*H. The variance, if granted, will not alter the essential character of the area;*

Granting the variance should not alter the essential character of the area. There are many single-family dwellings of similar size along Blair Way.

- I. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and*

Economic considerations do not appear to be part of the request.

- J. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

Single family dwellings and accessory structures are an allowed use in the General Development Shoreland (S-2) zoning district.

Mr. Roxbury asks if the flood plain will be an issue. The applicant states they are aware that certain amount of fill will need to be brought in to bring the lowest level one foot about the base flood elevation.

Mrs. Birnbaum confirms with the applicant on the exact location of the septic system, it is on the Northwestern portion of the parcel.

Mr. Weimann asks if the distance to the harbor is 50 and the natural shoreline if 63 feet. The applicant confirms that is correct.

Mr. Weimann motions to approve the variance as requested.

The board questions the distance to the manmade harbor and the natural shoreline and it should be clarified in the variance to avoid moving the proposed structure to a distance of 50 to the natural shoreline.

**Mr. Weimann withdraws the original motion and motions to approve the variance of 50 feet to the manmade harbor and 63 feet to the natural shoreline of Mille Lacs Lake as indicated by the site plan in the staff report.**

**Mrs. Birnbaum seconds the motion.**

Mr. Roxbury still questions the motion and the board deliberates the variance language.

The board now all agrees on Mr. Weimann's motion and votes.

**All in favor.**

**Motion carried.**

Consideration of a Request by Jay Johnson (owner):

- Reduce the minimum building setback from Ordinary High-Water Line of Mille Lacs Lake from seventy-five (75) feet to forty (40) feet. **MLCDO Table 501.**

to allow the construction of a dwelling addition and garage on property legally described as Lots 20 & 21 Hunter's Point, Mille Lacs County, Minnesota. **Located at 47905 Outlook Ave, Isle, MN 56342.** PIN 05-361-0160 & 05-361-0170.

Mr. Johnson is in attendance and explains the need for the variance in order to expand the existing non-conforming structure. The current deck on the lake side of the house is 40 feet from the OHWL and that is the variance distance that is being requested.

No written correspondence.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

*K. The variance proposes the use of land in a reasonable manner;*

The applicant is proposing a reasonable use of the property.

*L. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;*

The plight of the landowner appears to be due to the size of the lot as platted in 1926. Creating difficulty to meet the setback to the lake and road centerline.

*M. The variance, if granted, will not alter the essential character of the area;*

Granting the variance should not alter the essential character of the area. There are many single-family dwellings of similar size along Outlook Ave.

*N. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and*

Economic considerations do not appear to be part of the request.

*O. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

Single family dwellings and accessory structures are an allowed use in the General Development Shoreland (S-2) zoning district.

Mr. Weimann asks if the deck is covered, the applicant states it is not and is not entirely sure of the deck is even attached to the home.

Mr. Weimann motions to approve the variance as requested with the condition the deck cannot be enclosed.

Mr. Roxbury questions the motion language.

The board deliberates on the variance and how it should be worded in order to restrict the applicant from placing or expanding structure closer to the lake than the existing building. The deck and variance request of 40 feet is closer to the lake than the existing walls of the dwelling itself.

Mr. Weimann withdraws his original motion.

The board continues to deliberate.

**Mr. Lueck motions to approve the variance with the condition no structures may be expanded, added or placed closer to the OHWL of Mille Lacs Lake than the westerly wall of the existing dwelling.**

**Mrs. Birnbaum seconds.**

**All in favor.**

**Motion carries.**

Consideration of a Request by Keith Boe (owner):

- Reduce the minimum building setback from Ordinary High-Water Line of Mille Lacs Lake from seventy-five (75) feet to forty-eight (48) feet. **MLCDO Table 501.**

to allow the construction of a new residence on the parcel legally described as That part of Government Lots 1 and 2, Section 17, Township 43, Range 27, Mille Lacs County, Minnesota, described as follows; Commencing at a point of the extension Southwesterly of the Northerly line of Maple Lane 700 feet Southerly from the Southwesterly corner, also the most southerly corner of Lot 7, Block 2, Maple Bank as platted, this point to be hereafter known as point A; thence Northwesterly at right angle to the Shore of Mille Lacs Lake and the point of beginning of the land to be described; thence return to point A; thence Southwesterly along said extended Northerly line to the Northerly right of way of Old U.S. Highway 169; thence Northwesterly along said Northerly line, which is on a curve with a delta angle of 25 degrees, 27 minutes and a radius of 954.31 feet, a distance of 310.91 feet; thence Northeasterly at right angle to the chord of last described curve distance to the shore of Mille Lacs Lake; thence Northeasterly along said shore line to the point of beginning, Mille Lacs County, Minnesota. **Located at 17276 Virgo Rd, Onamia, MN 56359.** PIN 09-117-1600.

The applicant is not in attendance to represent their request.

Written correspondence:

To Whom it May Concern:

We are in full support of the request by Keith Boe to improve his property.

Mark and Katie Mohawk  
North Star Resort  
17106 Walleye Road  
Onamia MN 56359

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

*P. The variance proposes the use of land in a reasonable manner;*

The applicant is proposing a reasonable use of the property.

*Q. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;*

The plight of the landowner appears to be due to the size and shape of the lot as platted. Creating difficulty to meet the setback to the lake and road centerline.

*R. The variance, if granted, will not alter the essential character of the area;*

Granting the variance should not alter the essential character of the area. There are many single-family dwellings of similar size along Virgo/Walleye Rd.

*S. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and*

Economic considerations do not appear to be part of the request.

*T. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

Single family dwellings and accessory structures are an allowed use in the General Development Shoreland (S-2) zoning district.

The board reviews and deliberates the request. They determine the odd shape of the lot makes it difficult to meet the OHWL setback. The new construction would be slightly further away from the lake than the existing dwelling.



**Motioned by Mr. Lueck to approve the variance as requested – Seconded by Mrs. Birnbaum**

**All in favor.**

**Motion carried.**

VI. Other Business:

None.

VII. Adjournment:

Motion by Mr. Weimann, seconded by Mr. Lueck, to adjourn the meeting.

Motion carried with all members voting aye.

The meeting of the Mille Lacs County Board of Adjustment adjourned at 8:10 p.m.