

MEEKER COUNTY BOARD OF ADJUSTMENT MEETING
February 19, 2019
Audio Available Upon Request

The Meeker County Board of Adjustment met at the Courthouse on **Tuesday, February 19, 2019 at 5:00pm** to consider the following variance applications and other business before the Board. Members present were Mike Brooks, Kim Hempel, Al Anderson and Zoning Administrator Kristin Cote.

Brooks calls the meeting to order at 5:02pm. There is a quorum.

The Board states their names for voice recognition.

Brooks asks the Board if there are any corrections or additions to the December 4, 2018 meeting minutes.

None are noted.

Anderson makes a motion to approve the minutes.

Hempel seconds the motion.

Motion carried 3-0.

5:03pm

Brooks opens the public hearing for Brett & Siri Damerow, 725 W 8th St, Litchfield, MN 55355. Property located at 58001 226th St, Litchfield, MN 55355. Lot One (1), Block Three (3), Hidden View Woods 3rd Addition, Star Lake, Litchfield Township. An application for an Area Variance to remove an existing dwelling and construct a new dwelling with attached deck in variance to the required 200' setback to the OHWL of a Natural Sensitive Lake, a variance to the required 150' setback to the OHWL of a Natural Environment Lake, a variance to the required 35' setback to the road right of way and a variance to the minimum permitted 800 square feet of area for a dwelling all in the R-2 Rural Residential District and within the Shoreland District.

Cote: This property is a .61 acre riparian lot that is within the R-2 Rural Residential zoned plat of Hidden Creek Shores. That plat of Hidden Creek Shores was made before the Shore land Ordinance of 1972 and the lot is small in width, depth and area. It is also a peninsula that is bordered by Mud Lake to the northwest and Star Lake to the southeast of the property. Mud Lake is a Natural Sensitive Lake with a 200' lake setback and Star Lake is a Natural Environment Lake with a 150' lake setback. Currently on this site there is a mobile home with an attached deck and tuck under garage with no record of the year constructed, a holding tank septic system with no record of the year installed which passed compliance in 2016, and a domestic water well. The current property owner is requesting to be permitted to construct a new home with attached decks and a walk out basement in essentially the same area as where the existing home sits. The proposal would come 2' closer to Star Lake and approximately 5' closer to Mud Lake than what is currently on-site. That applicant has requested variance to the OHWL of both Star and Mud Lakes, the road right of way, and to construct a house less than 800 square feet on a permanent foundation. The applicant would like to continue utilizing the holding tank for this seasonal cabin. The Ordinary High Water Level elevation is set at 1165.4. That means the lowest livable

level of this dwelling must be at a minimum elevation of 1168.4. The grade of the existing dwelling is at an approximate 1172 elevation. This lot is extremely limited in regards to building area due to the overlapping lake setbacks.

Jens Peterson (neighbor) and Dan Behnke (township board member) are present for this hearing.

Behnke is present on behalf of the township. He states that the road is slated to be paved and there are concerns about the turn-around at the end of the road and what has to be done in order for them to be able to pave it. The turn-around needs to be dropped down several feet to make things work, plus there is going to be some run-off from the asphalt because water has to go a certain way, it can't just go off both sides of the road into the ditch. There is a hill that comes back towards Damerow's property. We need to know what is going on at the end property for one thing, the DNR. We have been in works with the DNR to try to get a variance for this water, but we don't know how we are going to do it yet. It is going to be a significant amount of water. We may have to have a boring done with riprap by the lake.

Anderson asks if the direction of the water going towards Mud Lake.

Behnke says that would be the preferred direction, but we haven't had our borer go out there yet due to the amount snow.

Brooks reads a letter from Ethan Jenzen, the Area Hydrologist of the DNR:

This application requests variance to a number of ordinance standards, including OHWL setbacks for Star and Mud Lakes. The issue at hand with regard to this application is whether the variance request is reasonable given the current size and setting of the lot. As with the previous application, I must ask if the property is to be used in harmony with the general intent and purpose of the ordinance, and if there are unique circumstances to the property not created by the landowner. It is apparent that this property is inherently difficult due to the proximity to Mud and Star Lakes, two water bodies displaying significant natural character and deemed very sensitive to development pressures under the Meeker County Shoreland Ordinance. As such, if this lot were preciously undeveloped, it would be unlikely that new development could be allowed on this site. Due to the somewhat unique nature of this site, I must ask the Board to consider the level of reasonable development for the property; specifically, what is the minimum impact alternative for use? In this case, it would appear that the minimum impact use would be maintaining the existing building footprint/area. It is my understanding that the current proposal requests a structure that is slightly larger than the existing building and deck footprint. Is the proposed development at this site reasonable for given the property location and setting?

Please consider that in previous letters to the Board, it has been stated that one goal of shoreland zoning is to decrease nonconformity over time. The existing structure is currently nonconforming to ordinance standards. Both lakes adjacent to this property have more significant protections under the Meeker County Ordinance due to natural character and sensitivity to development. While the proposed changes to the existing structure are small, minimal development should be the standard for lakes such as Mud and Star, and significant development will fundamentally change lake condition. As such, it is my recommendation that, if possible, this project be revised or reduced in size to meet the current level of development on the property, or additional options explored to prevent expansion beyond the existing structure footprint.

Brooks also reads a letter from Brett Damerow:

I am writing to address a couple issues pertaining to my variance application. Regretfully, I won't be in attendance due to the date change. There are two possible issues with moving the structure closer to the lakes. I will address the need for each below.

1. ***The 10x24 addition to the Northwest corner of the building.*** *I am asking for the addition to accommodate a stairwell to access the basement. Currently there is no interior access to the basement. The stairwell will allow for more finished square footage in the basement as well as main level. 201 Building Supply did the drawing and recommended asking for the addition versus trying to put the stairwell in the existing footprint for two reasons. First, the overall square footage of a stairwell would be too significant and would take away from the already small square footage of the existing footprint. Secondly, he cited the difficulty of floor truss design to accommodate both the two foot cantilever on each side of the block foundation and the stairwell. The addition would take the place of 24 feet of existing deck on the west side of the existing structure.*

2. ***Replacing the posts on deck on the east side of the existing deck.*** *There is currently a six foot wide deck that runs the length of the existing structure on the east side. I am asking for a two foot cantilever over the current block foundation to increase the overall width of the existing structure. This means we would either have to cantilever the deck two feet over those existing posts or move the posts closer to Star Lake by two feet and replace by 6x6 posts. The posts that are there are 4x4 posts and am worried they won't carry the load of a 2 foot cantilever. I am not sure how deep the 4x4's go down into the ground.*

Thanks for your consideration. I will gladly meet to discuss further or would also be available by phone any time.

Peterson says that Brett and his wife have done more for that property to improve it in the last six months than has been done in 25 years. The foundation is already there, they just want to cantilever it out. It all depends on the road, but doesn't think it will have any impact on the lake.

Cote asks Behnke if the road project is slated for the coming season.

Behnke says yes, the engineering and surface water plans will be done by spring. Most of the dirt work is already done on the road; we just don't want to do the end by the cul-de-sac until we are ready to pave. If we get in there and start cutting down the road and it's a month or two before they get there to asphalt it, all the work could potentially be destroyed by runoff and all that gravel would end up in their lot.

Brooks feels it would be best to continue this public hearing to next month, so the Board can speak with Damerow.

Hempel makes a motion to continue this public hearing to March 5, 2019.

Anderson seconds the motion.

Motion carried 3-0.

5:18pm

Brooks opens the public hearing for Harlan & Denise Andersen, 66305 288th St, Litchfield, MN 55355. That Part of Government Lots Four (4) and Five (5), more fully described in the application. Section Thirty Four (34), Township One Hundred Twenty (120), Range Thirty (30), Richardson Lake, Forest City

Township. An application for an Area Variance to construct a house addition to an existing dwelling in variance to the required 10' setback to the side lot line, a variance to exceed the maximum permitted 25% of impervious coverage, and a variance to the required 100' setback to a Recreational Development Lake all in the R-1 Suburban Residential District and within the Shoreland District.

Cote: This property is a metes and bounds R-1 Suburban Residential zoned riparian lot located on Lake Richardson in Forest City Township. Lake Richardson is classified as a Recreational Development Lake. This property existed prior to the Shore land Ordinance of 1972 and is small in width, depth and area. Currently on this property there is a house constructed in 1952 which was granted a variance for the construction of an addition to the lake setback in 2004, a free standing deck, a small detached accessory building, a detached garage which was granted a variance to both the square footage and the side yard setback in 1997, a domestic water well and a mound SSTS system installed in 1996 which passed a compliance inspection in 2016. The property owner accesses this lot via an easement over parcel number 09-0354-000. This property has a steep shoreline, but it has been indicated by the land surveyor that the slope and distance does not meet the criteria of a bluff. The current property owner is requesting to be permitted to construct an addition to this dwelling in variance to the side lot line setback, lake setback and to the maximum permitted 25% of impervious surface coverage.

Harlan Andersen is present for this hearing.

Andersen states that he is purchasing the land adjacent to this property. He will be closing on Friday.

Brooks reads a letter from Ethan Jenzen:

This application requests variance from two separate setback requirements of the Meeker County Shoreland Ordinance, as well as variance from impervious surface standard. While this project in itself may be small and not constitute a significant negative effect to the lake, I am concerned for the precedence set if many projects of this type were allowed to move forward. The cumulative effect of a significant number of similar projects could be negative on lake character and quality, with negative connotation for recreation for all users. In this case, I must ask if the work is consistent with the local comprehensive plan and corresponds with the purposes and intent of the ordinance itself. I advise that, if possible, this project be reduced in size to meet the impervious surface requirements. If the project is not reduced, some concession must be made to address surface runoff on the site (ie. Infiltration basins, rain gardens, or other stormwater controls) that would promote storage or redirection of surface runoff away from the lake.

Variations to shoreland ordinance standards are an important tool for balancing property rights with the public's right to clean water and healthy habitats. Variations to shoreland standards, however, should be rare and only for exceptional situations. The variance criteria in Minnesota Statutes Chapter 394.27, Subp. 7 must be used for determining these exceptional situations. Note that ALL five variance criteria must be satisfied to approve a variance. It is important that there be a good record that sufficiently documents the decision on all five criteria.

Please send your decision to me within ten days of making your decision, including your rationale or findings of fact for each of the five criteria in statute. If you have any questions, comments or concerns with regards to the information above, please feel free to contact me at 320-796-2161 x232.

Anderson asks if the DNR (Ethan Jenzen) knows about the purchase of the adjacent property. Yes

Brooks states that even if he was not to own the secondary property, there is nothing next to him other than woods. Moving 2-3' won't affect anyone.

Andersen says the addition is for an extra bedroom and this will become a year round home.

Anderson believes this hearing should be continued to the next month to make sure the closing goes through, then he will have ownership of the adjacent lot. Ultimately, all variances may not be needed.

Anderson makes a motion to continue this hearing to March 5, 2019.

Brooks seconds the motion.

Motion carried 3-0.

5:30pm

Brooks opens the public hearing for Lori Haffley Revocable Trust/Lori & Gregory Haffley Trustee, 640 Lakewood Dr, SW, Hutchinson, MN 55350. Property located at 62144 200th St, Litchfield, MN 55355. The North Half (N ½) of Lot Seven (7), Block One (1), Camp 4E Addition, Lake Minnie Belle, Greenleaf Township. An application for an Area Variance to construct an addition to an existing dwelling in variance to the required 10' setback to a side lot line and in variance to the required 75' setback to the OHWL of a General Development Lake in the R-1 Suburban Residential District and within the Shoreland District.

Cote: This property is a .16 acre (6,969.6 square foot) R-1 Suburban Residential zoned riparian property located within the plat of Camp 4E on the east side of lake Minnie Belle. This property consists of the north half of lot seven plus some additional land located easterly across the township road. The plat of Camp 4E was made before the Shoreland Ordinance of 1972 (1956) and is small in width, depth and area. Currently on the property there is a cabin with an attached porch constructed in 1968, a utility shed constructed in 1968, and a failing SSTS system. This cabin is served by a shared well. The property owner has placed money in escrow to update the septic system. The plan in regards to the septic is to do a directional boring under the township road and install the drain field on the non-riparian property. The existing property owner purchased this property on 8/9/2018 and is now proposing to construct an addition onto the road side of this property. Said addition requires variances to the side lot line and lake.

Greg Haffley is present for this hearing.

Haffley states that this property currently has a half bath—a toilet and a sink. He intends to rent it out as a seasonal cabin this summer and would like to add a shower. The bedrooms are a bit small, so this would also allow the bedrooms to be a little larger with closets.

Brooks reads a letter from Ethan Jenzen, Area Hydrologist of the DNR:

This application requests variance from two separate setback requirements of the Meeker County Shoreland Ordinance. It is my understanding as per our discussion that the proposed addition will consist of a single restroom, as the current building site does not have restroom facilities. In this case, I must ask the Board to consider if this project proposal would meet the definition of "practical difficulty" as noted under MN Statutes Chapter 394.27, Subp. 7; specifically, if there are unique circumstances to the property not created by the landowner. In this case, as there are also currently plans to upgrade the

septic system to bring the property into compliance with Meeker County standards, is there a shortcoming of existing development that does create issue with basic services on the property? The repair/upgrade of the septic system will also provide benefit to the shoreland area of Lake Minnie Belle over a non-compliant or failing system.

While it is understood that this area of riparian lots on Minnie Belle Lake are smaller than average due to historic development and small historic riparian lot size, are there unique circumstances to the property that should be considered for the home structure as proposed to proceed? If this property does demonstrate a unique circumstance, then I must ask the Board to limit the proposed addition to the dimensions necessary to achieve the basic needs of the property.

Haffley shows the Board his plans for the proposed construction.

Cote states that they are asking for a 20' variance to the lake and a 5'7" variance to the side lot line.

Hempel asks if there is a foundation. *No, it's on cement posts/pillars that are in good shape.*

Anderson doesn't see an issue with this request.

Brooks makes a motion to close the public hearing.

Anderson seconds the motion.

Motion carried 3-0.

Anderson makes a motion to approve an area variance of 20' from the required 75' setback to the Ordinary High Water Level of a General Development Lake and an area variance of 5'7" from the required 10' setback to the southerly side lot line to construct an addition to an existing cabin within the R-1 Suburban Residential District and the Shore land District with the conditions that erosion control be utilized during construction until permanent vegetative cover is established to prevent the erosion of material into sensitive areas and that all permits be obtained prior to commencing any construction on this site.

Hempel seconds the motion.

Motion carried 3-0.

5:45pm

Hempel offers to be the 2019 Chairman for the Board of Adjustment.

Brooks seconds the motion.

Motion carried 3-0.

Anderson offers to be the 2019 Co-chairman for the Board of Adjustment.

Hempel seconds the motion.

Motion carried 3-0.

5:55pm

Brooks makes a motion to adjourn.

Anderson seconds the motion.

Motion carried 3-0.