

**MINUTES OF THE MEETING
OF THE
OTTER TAIL COUNTY BOARD OF ADJUSTMENT
Thursday, September 6, 2007**

The Otter Tail County Board of Adjustment met Thursday, September 6, 2007, with the following persons in attendance:

Les Estes	Michael Harris
Paul Larson	Randall Mann
Steve Schierer	Carl Zick
Chris Stuber, Assistant County Attorney	
Kyle Westergard, Land and Resource Management	

Called to Order – Randall Mann, Chair called the meeting of the Board of Adjustment to order at 6:30 p.m.

Minutes Approved -

The Board of Adjustment approved the minutes of the August 2, 2007 meeting as mailed.

The Board of Adjustment considered the following applications for variance:

Al Buckmeier – Approved the variance as requested. (6:33 p.m.)

Al Buckmeier, Lot 2 Otter Tail River Park, Otter Tail Lake in Everts Township, requested the following: Fence over 3' high on shoreline. The fence was erected on the advice of my insurance agent to protect me from the liability of having Zorbaz's customers on my property. Variance of 0' from current lake level as depicted on the drawing submitted with the variance application and variance to build fence within road right-of-way of CSAH 72, 9' 8" for a vision obstructing fence. Fence is 6' high. The required ordinary high water level setback is 75' and the required road right-of-way setback is 20'. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Steve Schierer made a motion, second by Carl Zick and unanimously carried, to approve the fence as constructed, as described in the variance application dated July 20, 2007 and as depicted on the drawing submitted with the variance application. It was noted that the portion of the fence which is in the road right-of-way has a height of 42". It was also noted that the variances granted for this vision obstructing fence will not create precedence because of the uniqueness of the applicant's property being located adjacent to a commercial entity in a very crowded area.

Lucy Tabatt – Approve the variance as requested. (6:37 p.m.)

Lucy Tabatt, Lot 4 Block 2 Summer Haven Beach First Addition, Pelican Lake in Scambler Township, requested the following: Reduction in separation distance from 24" to 16" to install mound septic system. Request a variance of 8". State Rule 7080 requires 12" of separation. Chad Tabatt, the applicant's son, appeared with the applicant at the public hearing. The audience was polled with Preston Smith speaking for the variance as requested. It should be noted that Mr. Smith shares the septic system with Ms. Tabatt. Bill Schueller, System Designer, indicated that the proposed location is the best location for the placement of a mound system. Kyle Westergard, Land and Resource Department, noted for the Board's information that the Otter Tail County Board of Commissioners plan to adopt Rule 7080 which requires only 12" of separation. After consideration and discussion, Paul Larson made a motion, second by Steve Schierer and unanimously carried, to approve as requested the reduction in separation from 24" to 16" for the installation of the proposed mound system as depicted on the Site Data Worksheet submitted with the variance application. Hardship is the terrain features of the applicant's property.

Ronald and Judy Bucholz – Approved the variance as requested with a condition. (6:45 p.m.)

Ronald and Judy Bucholz, Lot 1 Lazy Acres 1st Addition, Marion Lake in Rush Lake Township, requested a variance of 49' from the required ordinary high water level setback of 75' for the construction of a new roof over an existing structure located 26' from the ordinary high water level. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Randall Mann made a motion, second by Steve Schierer and unanimously carried, to approve a variance of 49' from the required ordinary high water level setback of 75' for the construction of a new roof over an existing structure located 26' from the ordinary high water level with the condition that the applicants must submit to the Land and Resource Management Department, for approval, a plan that adequately drains the runoff water from the roof away from the lake and towards the back of the lot.

Ardean Kliewer – Approved the variance as requested with a condition. (6:50 p.m.)

Ardean Kliewer, part of Government Lot 2, Section 18 of Edna Township by Big McDonald Lake, requested a variance of 4' from the required north lot line setback of 10' for the construction of a 24' by 32' double car garage 6' from the north lot line. The audience was polled with Gerald Lowe speaking for the variance as requested. A letter from Mr. Lowe in support of the variance as requested was noted for the record. After consideration and discussion, Steve Schierer made a motion, second by Michael Harris and unanimously carried, to approve a variance of 4' from the required north lot line setback of 10' for the construction of a garage 6' from the north lot line with the condition that no more than 25% of the total lot area can be covered with impervious surfaces. It was noted that the proposed project is an improvement to the applicant's property because the proposed structure will be further away from the road right-of-way. It was also noted that the variance as approved will provide the applicant with a reasonable use of his property and the variance as approved will not significantly impact the lot to the north since that lot is basically wetland.

Dale Formo and Ron Carey – Approved the variance as requested. (7:00 p.m.)

Dale Formo and Ron Carey, part of the Northwest Quarter of the Northeast Quarter, Section 14 of Buse Township by an unmanned lake, requested a variance of 5' from the required 20' maximum height of a non dwelling structure for the construction of a commercial building having a height of 25'. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Paul Larson made a motion, second by Michael Harris and unanimously carried, to approve a variance of 5' from the required 20' maximum height of a non dwelling structure for the construction of a commercial building having a height of 25'. It was noted that the proposed structure is consistent with other commercially used buildings in this general area.

Kelly Korinek – Denied. (7:05 p.m.)

Kelly Korinek, part of Government Lot 4, Section 9 of Lida Township by Lake Lida, requested a variance of 5' from the required side lot line setback of 10', a variance of 47' from the required ordinary high water level setback of 75', a variance of 6' from the required septic tank setback of 10', and a variance of 10' from the required road right-of-way setback of 20' for the placement of a garage 5' from the lot line, 28' from the ordinary high water level, 4' from the septic tank and 10' from the road right-of-way. The audience was polled with no one speaking for or against the variance as requested. A letter from the Otter Tail County Highway Department requesting a 20' setback from the road right-of-way was read for the record. After consideration and discussion, Michael Harris made a motion, second by Carl Zick and unanimously carried, to deny the variance as requested noting that the applicant's property is not large enough to support the proposed development. The Board expressed concern with the number of variances required for the proposed development.

Jim and Carol Peterson – Approved the variance as requested. (7:30 p.m.)

Jim and Carol Peterson, part of Government Lot 6, Section 12 of Maine Township by Pickerel Lake, requested the following: Install an L-Shaped mound drain, starting the mound at 12" above the ordinary high water level as required by the State of Minnesota. Otter Tail County currently requires 24" of separation to start a mound. We are asking for a variance of 12" separation as required by State Code. The audience was polled with no one speaking for or against the variance as requested. A letter from the Maine Town Board of Supervisors in support of the variance as requested and noting that Maine Township would accept no responsibilities for any damages to the proposed system was read for the record. After consideration and discussion, Carl Zick made a motion, second by Les Estes and unanimously carried, to approve the variance as requested in the variance application dated August 13, 2007 and as depicted on the Site Data Worksheet submitted with the variance application.

Glenn Fladmark – Tabled. (7:35 p.m.)

Glenn Fladmark, Lot 5 Lucky Horse Shoe Bay, Lake Lida in Lida Township, requested a variance of 15' from the required ordinary high water level setback of 75' for the placement of a 28' by 50' dwelling 60' from the ordinary high water level. The audience was polled with no one speaking for or against the variance as requested. Letters from James and Patricia Clarke and Debra Mooney in support of the variance as requested was read for the record. During review of the applicant drawing it was noted that the applicant's proposed development also requires a variance from the road right-of-way which cannot be considered at this public hearing since a road right-of-way variance was not a part of the originally variance application. The following options were explained to the applicant: 1.) the request could be acted upon as submitted which if approved would require that the proposed development be placed at least 20' from the road right-of-way, 2.) the request could be tabled to allow the applicant an opportunity to consider other alternatives that would not require a variance from the road right-of-way, and 3.) the applicant would submit a new application for consideration by the Board of Adjustment at their October meeting requesting variances from the ordinary high water level and road right-of-way. It was stressed that a new application would be required if the applicant would be requesting any additional variances. After consideration and discussion, Randall Mann made a motion, second by Steve Schierer and unanimously carried, to table this variance hearing until the October 4, 2007 meeting to provide the applicant with an opportunity to consider other alternatives that would not required a variance from the road right-of-way. It was noted that this option stills provides the applicant with the ability to submit a new variance application requesting the road right-of-way variance. The Board did not indicate whether or not they would approve a road right-of-way variance.

Darrin and Catherine Cox – Denied. (7:47 p.m.)

Darrin and Catherine Cox, part of Government Lot 1, Section 19 of Amor Township by Twin Lake, requested a variance of 7' from the required side lot line setback of 10' for the placement of a 24' by 40' structure 3' from the side lot line at the closest point. The audience was polled with Vernon Ege speaking to the variance as requested. Letters from Lawrence and Carol Mikkelson, Jim and Julie Gronbeck, Cindy Bolken and Muriel and Vern Foster in support of the variance as requested was read for the record. After consideration and discussion, Paul Larson made a motion, second by Carl Zick and unanimously carried, to deny the variance as requested as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested and noting that the only hardship is a self imposed hardship which was created when the garage was constructed without knowing the exact location of the lot line. It was noted that the applicants' request is an after the fact request and had the applicants submitted a variance application prior to starting the garage construction project the Board would not have granted the 7' variance because the applicants had other locations available for the placement of the garage that would have provided the applicants with a reasonable use of their property and would not have required the variance as requested.

Joan F. Torgerson Trust – Approved the variance as requested. (8:02 p.m.)

Joan F. Torgerson Trust, part of Subdivision Lot 8 of the Subdivision of Government Lots 1, 2, 3 and 4, Section 14 of Clitherall Township, requested the following: Owner seeks a variance of 21' from the required ordinary high water level setback of 100' for the placement of a detached garage. Hardship is the terrain features of the applicant's property as well as obstruction of view for neighboring property owners. The structure will replace two existing storage structures and be farther from lake. Proposed building will cause less disruption of hill and terrain behind two existing sheds. Proposed building will not obstruct view for neighboring properties. The proposed building will not exceed impervious surface allowed, and proposal is reasonable and is consistent with minimizing impact on the lake natural landscape. Les and Sonja Torgerson and Jay Paulson represented the applicant at the public hearing. The audience was polled with Owen and Becky Thompson and Milt Paulson speaking for the variance as requested. After consideration and discussion, Randall Mann made a motion, second by Michael Harris to deny the variance as requested noting that the application is very similar to the application which was deny in August, a reasonable use of the property can be obtained without the granting of the variance and there is no adequate hardship unique to this property that would allow for the granting of a variance for the structure as proposed. This motion failed with Les Estes, Paul Larson, Steve Schierer and Carl Zick voting no. After additional discussion and consideration, Paul Larson made a motion, second by Les Estes to approve the proposed development as described in the variance application dated August 15, 2007 and as depicted on the three drawings submitted with the application. This motion passed with Les Estes, Paul Larson, Steve Schierer and Carl Zick voting in favor of the motion. Those voting in favor of the motion noted that the proposed location is a reasonable location that will not obstruct the view from the adjacent properties and noting that the proposed development is similar to other development that has been approved by the Board in the past. Hardship is the terrain of the applicant's property. **Note** – There was approximately 50 minutes of discussion regarding this variance application. The information listed above is a very brief summary of the discussion; therefore, the secretary has decided to file the tape of this hearing with the printed minutes for future reference.

Eugene and Darnell Krell – Approved the variance as requested with conditions. (8:50 p.m.)

Eugene and Darnell Krell, part of Government Lots 5 and 6, Section 12 of Maine Township by Pickerel Lake, requested the following: Request lots buildable for non-residential use. Request to divide one parcel into 3 separate parcels, matching (across) from lake front Lots 2, 3, and 4. The west lot of the 3 back lots is taxes as part of Krell Lake Lot 4. There are 2 remaining lots. The owners (Hagen) of lake front Lot 2 will purchase the east back lot (150' by 358' deep). Also request the middle section to be available for sale in future to right buyer. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Steve Schierer made a motion, second by Michael Harris and unanimously carried, to approve the proposed subdivision with the following conditions: 1.) the east 1/3 of Tract B as identified on the registered surveyor's drawing dated September 17, 1987 must be permanently attached to Lot 2 Block 1 Haggstrom Beach Fourth Addition, 2.) the remaining 2/3 of Tract B must be permanently attached to Lot 4 Block 1 Haggstrom Beach Fourth Addition until such time as the applicants are able to convey the middle 1/3 of Tract B to the owner of Lot 3 Block 1 Haggstrom Beach Fourth Addition at which time the west 1/3 of Tract B must remain permanently attached to Lot 4 Block 1 Haggstrom Beach Fourth Addition and the middle 1/3 must be permanently attached to Lot 3 Block 1 Haggstrom Beach Fourth Addition, and 3.) a registered surveyor's drawing identifying the three tracts must be presented at the time of conveyance. It should be noted that the conveyance of the middle 1/3 of Tract B must be accomplished on or before February 15, 2008; otherwise, the middle 1/3 and the west 1/3 would remain permanently attached to Lot 4 Block 1 Haggstrom Beach Fourth Addition unless the applicants sought another variance.

Gerald E. and Robin G. Lowe – Approved the variance as requested with conditions. (9:02 p.m.)

Gerald E. and Robin G. Lowe, Lot 9 Block 1 and Lots 9 and 10 Block 2, Aerovilla, requested a variance to separate Lot 9 and Lot 10, two contiguous back lots, for the purpose of permanently attaching Lot 9 Block 2 to Lot 9 Block 1 and Lot 10 Block 2 to Lot 10 Block 1. The audience was polled with Chad and Lacey Thiel speaking in support of the variance as requested. A letter from Kelli Wegscheid in support of the variance as requested was read for the record. After consideration and discussion, Paul Larson made a motion, second by Michael Harris and unanimously carried, to approve the permanent attachment of Lot 9 Block 1 to Lot 9 Block 2 and the permanent attachment of Lot 10 Block 1 to Lot 10 Block 2 with the following conditions: 1.) the area within the back lots cannot be used when determining impervious surface coverage for front lot development and 2.) no residential/dwellings can be placed on the back lots.

Franklin Lake Condominium Association/Robert and Sara Wasvick – Denied. (9:08 p.m.)

Franklin Lake Condominium Association and Robert and Sara Wasvick, Unit 6, Franklin Lake Condos Community No. 31, Franklin Lake in Dunn Township, requested a variance of 35' from the required ordinary high water level setback of 100' for the placement of a 10' by 24' screen porch addition 65' from the ordinary high water level. Scott King, Contractor, represented the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Paul Larson made a motion, second by Michael Harris and unanimously carried, to deny the variance as requested as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested, the proposed development is advancing towards the ordinary high water level and other alternatives should be considered by the applicant that will not advance the structure towards the ordinary high water level.

Timothy M. Birkeland Et Al – Approved the variance as requested. (9:20 p.m.)

Timothy M. Birkeland Et Al, part of Government Lot 5, Section 24 of Dora Township by Big McDonald and Brown Lakes, requested the following: The existing storage building is located 32' from the side lot line and the proposed addition would also be 32' from the side lot line. We are requesting a variance of 18' from the side lot line of the existing storage building as part of the CIC and a variance of 18' for the proposed 50' by 96' addition to the existing storage building. The storage units will be individually owned and used for personal storage and not for commercial or residential purposes. Paul Jenson, Attorney, appeared with the applicant at the public hearing. The audience was polled with Marvin Hexum speaking for the variance as requested. A letter from Marvin Hexum in support of the variance as requested was read for the record. After consideration and discussion, Paul Larson made a motion, second by Steve Schierer and carried with Les Estes and Michael Harris voting no, to approve the variance as described in the application dated August 16, 2007 and as depicted on the drawing submitted with the variance application. Hardship is the change in the use of the property from private to a Common Interest Community which required a 50' side lot line setback.

Debbra L. Dalos – Tabled. (9:30 p.m.)

Debbra L. Dalos, Lots 89 and 90 Sater-Humphrey Camp Ranch, Ten Mile Lake in Tumuli Township, requested the following: Request for a variance to build 3' south of the northerly line of the property and 1' west of the easterly line of the property. I would build a 22' by 22' garage. The required lot line setback is 10' and the required road right-of-way setback is 20'. The proposed location for the 22' by 22' garage requires a 7' variance from the northerly lot line, a 9' variance from the easterly lot line and a 19' variance from the road right-of-way. Steve Langlie, Surveyor, appeared with the applicant at the public hearing. The audience was polled with Pat Eidal speaking for the variances as requested. A letter from Tumuli Township in support of the proposed location was read for the record. In addition, a letter from John Dalos, Roberta Dalos and Debbra Dalos indicating no objections to the requested variances was read for the record. After consideration and discussion, Michael Harris made a motion, second by Steve Schierer and unanimously carried, to table this hearing until the October 4, 2007 meeting to allow the applicant an opportunity to consider other possible locations on the property for the proposed development.

Robert and Jennifer Moore – Approved the variance as requested with a condition. (9:50 p.m.)

Robert and Jennifer Moore, part of the Southeast Quarter of the Northwest Quarter, Section 15 of Dead Lake Township, requested the following: to split the existing 5 acre parcel into 2- 2.5 acres parcels. The existing 5 acre parcel currently has 2 sewer systems and 2 residences on the property. The sewer systems are approved by Land and Resource. This property is outside of the Shoreland Zone. There is a wetland on the property which prevents the parcel from being subdivided into 2 -2.5 acres tracts without first obtaining a variance. Prior to the meeting it had been determined that there was only one approved septic systems on this property. The audience was polled with no one speaking for or against the variance as requested. After consideration and discussion, Steve Schierer made a motion, second by Paul Larson and unanimously carried, to approve the proposed subdivision as described in the variance application and as depicted on the registered surveyor's drawing submitted with the variance application with the condition that before the conveyance can be recorded or any site permits can be issued each tract must have an approved septic system. It was noted that each of the proposed tracts have adequate area for development.

Joan Martin Stobie – Tabled. (9:54 p.m.)

Joan Martin Stobie, Lot 17 and North Half of Lot 18, K-B Beach and Lot 3 Block 1 Tomlinson Oaks, Little Pine Lake in Corliss Township, requested the following: 1) Change roof line of existing 14' by 28' 1 – story. The north portion of home is located 1.5' from the lot line and 58' from the ordinary high water level. Requesting a variance of 8.5' from the required lot line setback of 10' and a variance of 17' from the required ordinary high water level setback of 75', 2) Remove existing middle section of home and construct a 34' by 45' 2 story addition 64' from the ordinary high water level. A variance of 11' from the required ordinary high water level setback of 75', and 3) Change existing 18' by 26' 1½ - story. South portion of home to a full 2-story located 7.5' from the lot line and 64' from the ordinary high water level. A variance of 2.5' from the required lot line setback of 10' and a variance of 11' from the required ordinary high water level setback of 75'. The audience was not polled as there was no one in attendance at the time of this public hearing. A letter signed by Lois Bossert, Stephen Fox, Kathy Johnson and Steven Bigler in support of the variance as requested was read for the record. During discussion concern was expressed with the exact location of the side lot lines and the need to have additional information regarding the lot line location before acting upon the requested variances. After consideration and discussion, Steve Schierer made a motion, second by Paul Larson and unanimously carried, to table this hearing until the October 4, 2007 meeting to provide the applicant with an opportunity to provide additional information regarding the location of the side lot lines.

Edward and Carol Casey – Withdrawn

Edward and Carol Casey, Sub Lot 5 and part of Sub Lot 6 of Government Lot 4, Section 32 of Amor Township by Otter Tail Lake, requested the following: a variance to allow us to build a replacement dwelling on our property on East Side of County Road 145. Improving setback to approximately 24' from the ordinary high water level. Required setback from the ordinary high water level is 75'. From letter dated July 10, 2007.

1. Improve setbacks from the Ordinary High Water Level from 16' 9" to 24' 0,
2. Improve setbacks from edge of County Road #145 from 12' 4' to 20' 0" (this moves all structures out of the right-of-way),
3. Reduce number of residential structures from two to one, and
4. Bring impervious surface ratio from 27.4% to approximately 24.5% (less than 25%).

Required setback from the ordinary high water level is 75'. **August 2, 2007 Meeting** - Paul Sorum appeared with the applicant at the public hearing. The audience was polled with no one speaking for or against the variance as requested. A letter from the Otter Tail County Highway Department supporting a 20' setback from the road right-of-way was read for the record. After discussion and consideration, Michael Harris made a motion, second by Carl Zick to approve the proposed development in a location that is at least 37.5' from the ordinary high water level and at least 20' from the road right-of-way with the condition that no more than 25% of the allowable lot area can be covered with impervious surfaces. After additional discussion and consideration this motion was withdrawn when it was determined that the setback being approved by the variance did not provide an adequate building site. Motion was made by Michael Harris, second by Carl Zick to deny the variance as requested noting that the applicants have adequate area on the other side of the County Road for the placement of the proposed development and can obtain a reasonable use of their property without the granting of the variances as requested. After additional discussion and consideration, the previous motion was withdrawn and Steve Schierer made a motion, second by Paul Larson and unanimously carried, to table, with the verbal permission of the applicants, this public hearing until the September 6, 2007 Board of Adjustment meeting to allow the applicants an opportunity to consider other possible alternatives. **September 6, 2007 Meeting** – A letter was received from Edward and Carol Casey prior to the September 6, 2007 meeting indicating their desire to withdraw their variance application.

Additional Business –

James E and Theresa Cross –

On Thursday, August 2, 2007 the Otter Tail County Board of Adjustment approved the following:

After discussion and consideration, Steve Schierer made a motion, second by Michael Harris and unanimously carried, to approve the variance as described in the variance application dated July 7, 2007 and as depicted on the drawing submitted with the variance application with the following conditions: 1.) a registered surveyor's drawing must be provided at the time of conveyance and 2.) a legally recorded easement must be granted to the Matson property before the property transfer can be legally recorded. Hardship is the terrain, size and shape of the existing property. It was also noted that it is common sense for the Giulianis' to have ownership of the property were their holding tank is located.

Prior to the September 6, 2007 meeting Mr. Nathaniel D. Welte, Attorney, submitted a request to have the second condition noted above removed. After discussion and consideration, Steve Schierer made a motion, second by Michael Harris and unanimously carried to amend the above noted motion to read as follows:

After discussion and consideration, Steve Schierer made a motion, second by Michael Harris and unanimously carried, to approve the variance as described in the variance application dated July 7, 2007 and as depicted on the drawing submitted with the variance application with the condition that a registered surveyor's drawing must be provided at the time the property is conveyed. Hardship is the terrain, size and shape of the existing property. It was also noted that it is common sense for the Giulianis' to have ownership of the property were their holding tank is located.

It should be noted that the second condition was removed because an easement had previously been recorded.

With no further business, Randall Mann, Chairman declared the meeting adjourned at 10:18 p.m.

Prepared by:

Wayne Stein, Secretary

The minutes were mailed on Saturday, September 10, 2007 to the Otter Tail County Board of Adjustment. Official action regarding these minutes will be taken by the Board of Adjustment at the next scheduled meeting.

