



Historic Courthouse  
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Milaca, MN 56353

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*Zoning Office*

## Minutes

### MILLE LACS COUNTY BOARD OF ADJUSTMENT Mille Lacs County Courthouse September 26th, 2022 7:00 p.m.

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

Members Absent: None

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

Others Present: None.

- I. Call to Order: The meeting was called to order at 7:00 p.m. by Mr. Roxbury.
- II. Pledge of Allegiance: Mr. Roxbury led those present in the Pledge of Allegiance.
- III. Approval of the Minutes:

Mr. Weimann proposes changes on page 3 of the August 22<sup>nd</sup> meeting minutes.

All members voted aye. Motion carried.

- IV. Old Business:

None.

- V. New Business:

#### Consideration of a Request by Jeff Smolinski to:

- Reduce the minimum building setback from the centerline of a township road from fifty (50) feet to thirty (30) feet. **MLCDO Table 501.**

to allow a garage to be constructed on a parcel legally described as Lots 8 & 9 Block C, Izatys, Mille Lacs County, Minnesota. **Located at 9282 Eyota Way, Onamia MN 56359.** PIN 17-400-0340.

Applicant Jeff Smolinski is present. The applicant explains they are planning to retire up to the lake and the main home is 105 years old and does not have enough storage. The original garage has since been converted into a guest house. They need more space to

park their cars and store their items. The applicant claims that attaching the new building to the existing guest house would not be good engineering due to two different foundation types. Engineering companies have advised them to separate the buildings, causing them to encroach on the road centerline setback. The applicant states that others along the same street have the same variance.

Mr. Roxbury states that just because other variances have been granted in the area does not mean the applicant is entitled to one.

Written Correspondence. (The text below is verbatim per emails sent to the Zoning Office.)

David Berger  
9304 Eyota Way  
Onamia, MN 56359

I am asking that the Consideration of a Request by Jeff Smolinski be denied.

My family has owned the property for 58 years and have enjoyed the friendly neighbors and special character that this lake Mille Lacs neighborhood provides.

Within the last couple of years, we have discovered some illegal dumping and vandalism on a wooded road which we own property on. Granting this variance would permanently obstruct our view of the entrance to this wooded road.

When I talked to Jeff about this Request, he said that he had originally planned to attach the building to the existing garage, but that the garage was built on a slab and the pole building will need footings and they can't be attached. I discussed this with my engineer who said there is nothing that says you can't build it one foot away, it doesn't need to be 20 feet away. If this request is denied, Jeff can still have his pole building with some minor adjustments and adhere to the setback ordinance.

Katherine Statz  
822 Lakeshore Blvd W  
Onamia, MN 56359

My husband and I own a cabin near 9282 Eyota Way, Onamia, Mn and we would like it if the variance for the set back of the garage to be constructed on this property be denied for the set back from 50 ft from the centerline to 30 ft. Mr. Smolinske has enough room on his property to have his garage at the 50 ft setback. There is also a slight curve in the road in front of his property and if the set back were to be 30 ft then it would be difficult to see around the garage for any on coming traffic. There is a lot of light traffic on Eyota Way and it would be dangerous for all concerned not to see traffic from either direction. Please deny this request.

Lila & Dennis Butts  
9627 Kasota Way  
Onamia, MN 56359

As per the Jeff Smolinski garage variance, my husband and I hope that it will be denied. The character of our neighborhood is being compromised by oversized garages and pole barns.

David & Linda Hoden  
9242 Eyota Way  
Onamia, MN 56359

We write to support the staff recommendation of denial of the variance request, based on the first four evaluation criteria for a setback.

We have looked at the application and criteria carefully. We believe some modification in location and proximity to the existing garage, as well as minor shortening of the proposed garage length (68'), will accommodate a large garage that does not require a variance.

Frederick K. Ness  
39567 Winona Way  
Onamia, MN 56359

In regard to the consideration of request to reduce minimum building setback made by Jeff Smolinski,

My name is Frederick Ness and I live at 39567 Winona Way, Onamia, MN 56359. I was approached by some of our neighbors with their concern about the request made by Mr. Smolinski. They are concerned that if approved the building would reduce the view of their property. It is also apparent that the request does not meet the necessary existing criteria. For those reasons I would recommend denial of the request. I will add that this building does not directly affect any views from my own property. I do believe that it is important to be mindful of your neighbors when modifying your property and mindful of how we modify lake property in general.

Michele Conroy  
7296 W. State Rd 77  
Hayward, WI 54843

In response to the Consideration of a Request by Jeff Smolinski at 9282 Eyota Way, I ask you to deny for the following reasons:

- 1) The proposed building would stick out too far into the right of way, preventing view of our family's property across Eyota Way.
- 2) The size of the proposed building is so large that it would be an eyesore and take away from the beauty of the area.
- 3) I feel there should not be any metal buildings on the north side of Eyota Way, as this also detracts from the lakeshore beauty.
- 4) I like open spaces. Another building on the property so close to my family's property line also infringes on and crowds the space and the view.

I am the sister of the property owners next door to this proposed building site. I visit frequently and would hate to see this variance Request go through.

End of Written Correspondence.

The applicant states that references to a steel building/pole building are incorrect. It will be a fully matching structure with the existing home.

Mr. Roxbury opens the public hearing.

David Berger - 9304 Eyota Way

Mr. Smolinski has not shown the proper criteria to be granted a variance. There is plenty of space to construct the garage. Granting this would alter the general character of the area. We ask that the board deny the variance request for Mr. Smolinski.

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 not proposing a reasonable use of the property. This parcel, comparatively speaking, is larger than many other parcels along Mille Lacs Lake. According to table 313.1.A in the MLCDO, this property meets the requirements of a duplex lot. There is ample room on the parcel to construct a garage that fits within the setback distances that have been laid out in the development ordinance. Reducing the size of the proposed structure and its distance from the existing structure would allow the setback distances to be met.

*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 is not due to unique circumstances of the property. The plight identified by the applicant appears to be due to the location of an existing building constructed on the property.

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

Granting the variance may alter the essential character of the area. This would be the 3rd substantial structure on this parcel. Many in the area have only 1 or 2 main structures.

*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.*

Accessory structures are an allowed use in the General Development Shoreland (S-2) zoning district.

Staff recommends denial.

Mr. Weimann states that he agrees with the staff report and recommendation. The proposed construction does not meet the criteria for a variance. He adds that he agrees with the written correspondence concerning the road visibility and the bend in the road. Mr. Smolinski interrupts that there is no bend in the road. Mr. Weimann re-affirms his interpretation that there is indeed a bend in the road.

Mr. Lueck asks if the building could be turned sideways. The applicant states that there is a garden and landscaping and it would "close off" the front of the property.

Mr. Lueck asks if there is any reason the building could not be put in between the two existing structures on the property. The applicant states that he is not sure how you would do that.

Mr. Lueck asks what the width of the lots are. They are approximately 90 feet wide each.

Mrs. Birnbaum agrees with the staff report that the request does not meet the criteria for a variance.

Mr. Roxbury is concerned with the relation between the right of way to the proposed structure due to the constructed road not always following the platted right of way.

Mr. Carlson asks if the two lots making up the parcel could be split. Staff states they would need to look into it but it potentially could be split into two lots.

No further discussion.

**Motioned by Mr. Weimann to deny the variance as requested– Seconded by Mrs. Birnbaum**

**All in favor.**

**Motion carried.**

Consideration of a Request by John Kothenbeutel to:

- Reduce the number of soil treatment and dispersal areas for a type I septic system from two (2) to zero (0). **MLC SSTS Ordinance Provision 402 Part (10).**

to allow the creation of a new lot via administrative subdivision on a parcel legally described as, SE OF NE 8 41 26 40.00, Mille Lacs County, Minnesota. **Located at 11xxx Quail Rd, Onamia, MN 56359.** PIN 14-008-0401.

The applicant is not present.

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.

*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 is due to unique circumstances of the property. The soil on the property is not adequate enough to meet the stipulations of a Type I septic system.

*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 other Type II & III in the county with the majority being Type III.

*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.*

Granting this variance will not allow a use to be conducted that is not permitted in this zoning district.

Staff recommends approval.

Mr. Hayes addresses the board on the purpose of this variance is for. State rules are requiring the zoning office to either require soil borings, a deed restriction or a variance for any new lots that are being created via administrative subdivision or platting.

Mr. Weimann asks the difference between the types of septic systems.

Staff states that the board will most likely be seeing more of these requests in the future.

No further discussion.

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

**All in favor.**

**Motion carried.**

Consideration of a Request by Diane Green/Spencer Sommerlot to:

- Reduce the minimum building setback from the ordinary high-water line of the West Branch of Rum River from one hundred (100) feet to fifty (50) feet. **MLCDO Table 322.A.**

to allow the construction of a garage on a parcel legally described as, N 522 FT OF SW OF NW, LYING S'LY OF W BR RUM RIVER, SEE 6/25/97 SKETCH 36 37 27, Mille Lacs County, Minnesota. **Located at 7738 Davenport Rd, Princeton, MN 55371.** PIN 12-036-0700.

- Reduce the minimum building setback from the ordinary high-water line of the West Branch of Rum River from one hundred (100) feet to seventy-seven and a half (77.5) feet. **MLCDO Table 322.A.**

to allow the construction of a deck on a parcel legally described as, N 522 FT OF SW OF NW, LYING S'LY OF W BR RUM RIVER, SEE 6/25/97 SKETCH 36 37 27, Mille Lacs County, Minnesota. **Located at 7738 Davenport Rd, Princeton, MN 55371.** PIN 12-036-0700.

Mr. Sommerlot explains the variance request for a deck on the South facing side of the house and a request to construct a new garage 50 feet from the high-water mark. There are some significant grade changes that hinder where they can build the garage.

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. Adding an attached deck and detached garage would not negatively impact surrounding properties or the public using the river.

*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 is due to unique circumstances of the property. The unique topography of the parcel limits the buildable area in between the two water features. However, the property owner could move the proposed garage location over the existing driveway loop to have a larger distance from the river OHWL, although completely meeting the 100ft setback is unlikely due to the steep drop to the south and impending flood zone. Adding the attached deck in the proposed location would not encroach upon the setback any further than the existing non-conforming dwelling.

*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 other medium sized parcels in the area with dwellings and accessory structures.

*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.*

Accessory structures are an allowed use in the Agricultural Residential and West Branch of Rum River – Agricultural Districts.

Staff recommends approval of the variance for the deck. Staff recommends denial of the 50-foot variance for the garage, instead granting a 75-foot variance.

Mr. Weimann states that he sees the practical difficulty with the topography and asks why staff determined a 75ft setback would be better suited. Mr. Hayes states that the closer we can get to meeting the setback, the better. Mr. Reinking states that while on a site visit, he determined that if the structure were to be moved the additional 25ft, there would still be enough buildable area.

Mr. Weimann asks the applicant what the size of the garage would be. The applicant states it will be a 3-stall garage approximately 36 feet wide by 28 feet.

Mr. Lueck asks if moving that 25 feet would be an issue. The applicant says that it should be okay.

Mr. Carlson asks what the elevation of the highwater mark for the West Branch is. That number is unknown for this section of the river.

Mr. Weimann states the slope on the south side may be more of an issue than the flood zone location.

Mr. Lueck says that if they can go back to the 75ft it would be better than the 50ft setback.



Mr. Roxbury asks how they plan to access the garage with the vehicles. The applicant says they will be accessing it from the northwest.

No further discussion.

**Motioned by Mr. Lueck to deny the variance of 50 feet to the OHWL for the garage and approve a variance for 75 feet to the OHWL for the garage. Also, to approve the variance, as requested, to add the deck on to the house. – Seconded by Mr. Weimann.**

**All in favor.**

**Motion carried.**

Consideration of a Requests by Jesse Degerstrom to:

- Reduce the minimum building setback from the 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 deck on a parcel legally described as, Lot 15, Hawkbill Point Revised, Mille Lacs County, Minnesota. **Located at 43703 Vista Rd, Isle, MN 56342.** PIN 05-360-0160.

- Reduce the minimum building setback from the ordinary high-water line of Mille Lacs Lake from seventy-five (75) feet to fifty-two (52) feet. **MLCDO Table 501.**

to allow the movement and placement of a shed on a parcel legally described as, Lot 15, Hawkbill Point Revised, Mille Lacs County, Minnesota. **Located at 43703 Vista Rd, Isle, MN 56342.** PIN 05-360-0160.

The applicant states that two weeks after they bought the property, they received a letter of violation saying the shed was too close to the road. They are asking to move the shed to the southwest side of the property in front of the holding tank. The other request is to add a deck to the existing old stairs on the back of the house.

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.

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

The applicant is proposing a reasonable use of the property. Accessory structures and decks within the OHWL of Mille Lacs Lake are common in this area.

*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 of the lot as platted. The distance from the OHWL to the centerline of Vista Rd is ~150ft. This makes meeting both the centerline and OHWL setbacks difficult.

*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 dwellings North & South along the shoreline here that are similar distances to the OHWL.

*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 High Density Residential/Surface Water Commercial S-2 district.

Staff recommends approval of both variances as requested.

Mr. Lueck asks how far the shed is to the road right now. The applicant states it is about 20 feet from the road.

Mr. Weimann asks what the height of the deck would be. The deck will be less than 30 inches and does not plan to enclose the deck into a porch.

Mr. Weimann looks to confirm that the shed will be placed the same distance away from the lake as the house. The applicant states that is their plan.

**Motioned by Mr. Lueck to approve both variances as requested – Seconded by Mr. Carlson.**

**All in favor.**

**Motion carried.**

Consideration of a Request by Peg Flaig to:

- Reduce the minimum building setback from the ordinary high-water line of Mille Lacs Lake from seventy-five (75) feet to seventy-three (73) feet. **MLCDO Table 501.**

to allow the construction of two dwelling additions on a parcel legally described as, Lot 42 & S ½ of Lot 41, Sunset Bays, Mille Lacs County, Minnesota. **Located at 45637 Mille Lacs Pkwy, Isle, MN 56342.** PIN 05-804-0280.

#### Written Correspondence

Lorie Rask  
45591 Mille Lacs Pkwy  
Isle, MN 56342

I am unable to make the meeting tonight but want to show my support and agreement in granting the request to reduce the minimum building setback from the ordinary high water mark from seventy-five (75) feet to seventy-three (73) feet. The property is located at 45637 Mille Lacs Pkwy, Isle Mn 56342

The building referenced has been there for **years, and without alteration**, long before we bought the neighboring property in 1993. I'm confused why Peg needs to ask for a variance vs grandfathering it in. Without hesitation, I am in favor of granting her the variance.

Mr. Roxbury opens the public hearing.

Hearing none.

Mr. Roxbury closes the public hearing.

Mr. Hayes reads and summarizes the Staff Report.

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

The applicant is proposing a reasonable use of the property. Additions to lake properties are common and the proposed dimensions would not be unreasonable.

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

The existing structure was constructed in 1965 and only encroaches on the OHWL setback by 2ft. This discrepancy from the setback distance may have been from shoreline erosion in the last 57 years.

*W. 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. Many lake properties have added similar additions and the proposed additions would not be out of character.

*X. 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.

*Y. 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 & accessory structures are allowed uses in the High Density Residential/Surface Water Commercial zoning district.

Staff recommends approval of this variance.

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

**All in favor.**

**Motion carried.**

VI. Other Business:

None.

VII. Adjournment:

Motion by Mr. Carlson, 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 7:54 p.m.