

## **Minutes of the Stearns County Board of Adjustment**

A meeting of the Stearns County Board of Adjustment was held on Thursday, June 28, 2018, in Room 121 B/C/D of the Stearns County Service Center, 3301 County Road 138, Waite Park, MN beginning at 6:30 p.m.

Members Present: Jacob Holck, David Peschel, Michael Haehn, Bonnie Massmann, Dennis Gregory, Dave Gamradt and Michael Proell.

Members Absent: None

Environmental Services Staff Present: Chelle Benson, David Knafla and Laurie Lokken.

Chairperson Massmann called the meeting to order at 6:30 p.m.

### **Pledge of Allegiance**

Chairperson Massmann gave an introduction of the Board of Adjustment Public Hearing process.

### **Approval of April 26, 2018 minutes**

Motion was made by Michael Haehn, seconded by Dennis Gregory, to approve the minutes from the April 26, 2018 meeting. Motion carried unanimously.

### **Approval of May 24, 2018 minutes**

Motion was made by Jacob Holck, seconded by Michael Haehn, to approve the minutes from the May 24, 2018 meeting as amended. Motion carried unanimously.

### **Regular Agenda Items:**

- 1. Request for a variance from Sections 5.1.2 & 10.2.11A(1)(a) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Minnesota State Conference of the Churches of God, Eden Valley, Minnesota. File #P-010306.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Minnesota State Conference of the Churches of God, Eden Valley, MN from Sections 5.1.2 & 10.2.11A(1)(a) of the Stearns County Land Use & Zoning Ordinance #439 to reconstruct a 36 foot by 18 foot (648 square feet) portion of an existing structure, to include a full basement expansion, onto a legal nonconforming structure that is located within 100 feet of the OHWL of Long Lake, classified as Recreational Development. Said Ordinance does not allow for the expansion of a legal nonconforming structure unless the addition or alteration meets the minimum setback of 100 feet from a lake classified as Recreational Development.

Jon Lapp, representative for Minnesota State Conference of the Churches of God, was present at the meeting.

David Knafla gave an overview of the staff report. No correspondence was received regarding this request.

It was noted that all Board members present, except Michael Proell, visited the site prior to the meeting. Dennis Gregory stated that he spoke with Russell Rankin while he visited the site. David Peschel stated that he spoke with Mr. Rankin and Jon Lapp's spouse while he was onsite. Chairperson Massmann stated she spoke with both Mr. Lapp and Mr. Rankin while she visited the site.

Jon Lapp stated the reason they started this whole process is because they didn't do a very good job on the footings when the original building was built. They didn't tamp the ground inside the building before they poured the concrete. They didn't put any reinforcement in so it cracked, it settled and it pushed out about three inches on the one side. It is getting to a place where they consider it to be a risk to be in there and they need to do something, either replace the footings or add this additional basement. They figured as long as they had to go down four feet anyway for block work, it would be nice to have the extra storage space. They have a lot of recreational equipment that needs to be stored and they have limited space for that right now. The full basement would be used for storage of the equipment.

Mr. Gregory asked staff if there are any restrictions on the proposed gravel path that would go to the storage underneath the building. Mr. Knafla stated that would be taken into account when they do the Stormwater Management Plan for that portion of the building that's being replaced.

Michael Haehn asked the applicant if the footings on the rest of the building are fine and it's just the footings on the south end of the building. Mr. Lapp responded correct. The north end, they went down with the full basement underneath that and that's where the showers and bathrooms are.

Jacob Holck asked how long the footings have been a concern. Mr. Lapp responded they actually patched the crack along the wall so that rodents couldn't get in but it's not a very good situation.

No one was present to speak at the public hearing.

Motion was made by David Gamradt, seconded by Michael Haehn, to close the public hearing. Motion carried unanimously.

#### Findings of Fact.

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?
  - Yes. Under Residential District R-1, Section 9.9.1B allows for recreational resorts in concentrated areas.

**OVERALL BOARD CONSENSUS:** YES (All 7 members voted yes.)

2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. Section 1.2.A is to protect and promote public health and there is a potential safety issue. Section 1.2.D is to conserve natural and scenic areas and the applicant is moving it out of the lake zone so is making an attempt to make it better than its current situation.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)
3. The variance will be consistent with the Comprehensive Plan? Yes or No?
  - Yes. It is in keeping with Natural Resources Protection Goal 7, Objective 1 and that is evaluating the changes and how they respond to the natural systems and the potential impact on natural resources. Again, the applicant is moving it out of the lake impact zone. Plus, there is a nice buffer between the lake and that building so they are consistent with the Comprehensive Plan.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?
  - Yes. It is a church camp and the applicant is just making it safer for the children that they serve.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)
5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?
  - Yes. It is basically an island with the limited area (the setbacks and drainfield being in the middle) and there is nowhere to relocate the whole building so this is a good option.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)
6. The variance, if granted, maintains the essential character of the locality? Yes or No?
  - Yes. It doesn't change the character of the locality so it does not alter it.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)
7. The need for the variance involves more than economic considerations? Yes or No?
  - Yes. Economics were not a factor. It is more or less the safety of the campers.

**OVERALL BOARD CONSENSUS:**  **YES** (All 7 members voted yes.)

## DECISION

Based upon the evidence submitted regarding this variance application, motion was made by David Peschel, seconded by Jacob Holck, to approve the request to reconstruct a 36 foot by 18 foot (648 square feet) portion of an existing structure, to include a full basement expansion, onto a legal nonconforming structure that is located within 100 feet of the OHWL of Long Lake, classified as Recreational Development. Motion carried unanimously.

**2. Request for a variance from Sections 5.1.2 & 9.2.11A(3) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Jon & Jolene Cin, South Haven, Minnesota. File #P-010467.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Jon & Jolene Cin, South Haven, MN from Sections 5.1.2 & 9.2.11A(3) of the Stearns County Land Use & Zoning Ordinance #439 to construct a 14 foot by 24 foot addition on to a legal nonconforming residential structure 73 feet from the centerline of County Road 7, classified as a Major Collector Road. Said Ordinance does not allow for the expansion of a legal nonconforming structure and requires a structural setback of at least 100 feet from the centerline of a Major Collector Road.

Applicant, Jolene Cin, was present at the meeting.

David Knafla gave an overview of the staff report. It was noted that all Board members present, except David Peschel and Michael Proell, visited the site prior to the meeting and there was no communication on site. No correspondence was received regarding this request.

Jacob Holck asked staff if any comments had been received from Stearns County Highway staff. Mr. Knafla responded that County Highway Engineer Jodi Teich had reviewed the packet and commented that as long as the addition is not going towards the road, there would not be an issue.

Jolene Cin stated that their current porch is very small, it's not heated, they also have outside entry and they have the deck that has slippery steps in the spring, fall and winter. They propose to tear off that cold porch, put a heated porch on and move the washer and dryer out of the basement and into that porch, making it more accessible and easier for laundry. Also, to have everything heated in the winter and they want to put in two more big closets inside as there is only one closet in that whole house. Their proposal is just to make it better and more livable for them.

No one was present to speak at the public hearing.

Motion was made by Michael Haehn, seconded by Jacob Holck, to close the public hearing. Motion carried unanimously.

**Findings of Fact.**

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?
  - Yes. Additions are allowed in the R-10 zoning district.**OVERALL BOARD CONSENSUS:  YES** (All 7 members voted yes.)
2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. It is in harmony with Section 9.6.1.B, which is to manage the impacts of growth and development. This is an addition to an existing house so it is in harmony.**OVERALL BOARD CONSENSUS:  YES** (All 7 members voted yes.)

3. The variance will be consistent with the Comprehensive Plan? Yes or No?
- Yes. Growth and Development Goal 6, Objective 1 is to provide a diversity of housing for different styles and needs of residents. This falls under this category.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?
- Yes. Due to lack of space and to make it more user friendly for the applicants, they are adding the addition on the rear side of the house, which is away from the highway so that is a reasonable request.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?
- Yes. The landowner can't do anything about where the house is located so an addition on to that house makes a lot of sense.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
6. The variance, if granted, maintains the essential character of the locality? Yes or No?
- Yes. The character is not going to change with an addition on the house.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
7. The need for the variance involves more than economic considerations? Yes or No?
- Yes. Economics were not a part of this discussion.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

### DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Dennis Gregory, seconded by Michael Haehn, to approve the request to construct a 14 foot by 24 foot addition on to a legal nonconforming residential structure 73 feet from the centerline of County Road 7, classified as a Major Collector Road. Motion carried unanimously.

### **3. Request for a variance from Section 6.2.1A of the Stearns County Land Use & Zoning Ordinance #439, submitted by Robert & Judy Brink, Cold Spring, Minnesota. File #P-010608.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Robert & Judy Brink, Cold Spring, MN, from Section 6.2.1A of the Stearns County Land Use & Zoning Ordinance #439 to leave as constructed a 4,800 square foot detached accessory structure on a tract of land that is less than 9.5 acres in the Shoreland Overlay District. Said Ordinance allows for the maximum accessory building area of 2,400 square feet in tracts of land 4.5 to 9.49 acres in the Shoreland Overlay District.

Kevin Brink, representing the applicants, was present at the meeting.

David Knafla gave an overview of the staff report. No correspondence was received regarding this request.

It was noted that all Board members present, except David Peschel, visited the site prior to the meeting. Dennis Gregory stated that he spoke with Judy Brink while on site. Michael Haehn stated he spoke with Robert Brink while on site.

Mr. Haehn asked staff if this came up because they are selling this property. Mr. Knafla responded yes.

Dave Gamradt asked the applicant's representative how many cattle had been pastured there. Kevin Brink responded that in that particular pasture, there were never more than 15. At one point there had been 35, with calves, but then they had rented adjacent pasture.

Mr. Gregory asked staff who is responsible for determining that this shed was there in the Shoreland Overlay District (Wakefield Township or applicant). Mr. Knafla responded that no one had the tools to use that we have now when the house and shed were first constructed so no one realized that they were that close to Mud Lake and that Mud Lake is classified as a Natural Environment Lake. The Township probably had less tools than we did at the time of construction.

Mr. Gregory asked how accurate the measurement of acres is because if they got to 9.5 acres, all of this would go away. Mr. Knafla responded that we can't say that it's totally accurate but it is the best that we could do with the measuring tool that we had. We could never come up with 9.5 acres and we didn't want to spend the applicant's money to get the exact acreage by hiring a surveyor.

Mr. Gregory asked why the Ordinance didn't take into account mixed lots, part in Shoreland Overlay District and part not. Chelle Benson responded that as we proceeded through many iterations and interpretations, we have asked ourselves that question. We have subsequently made a call that we will be considering the whole parcel but due to a few other factors, we decided to go through the Board of Adjustment process to make sure that everything is permitted and correct.

Mr. Gamradt commented that at the time he was granted that permit, he had cattle and was housing his cattle so he would have been considered more ag related at that time. Mr. Brink responded they had a feedlot permit. Ms. Benson confirmed they did get a feedlot permit. The applicants have gone through all the right steps, asked all the right questions, went to the right bodies, got permits that they thought they needed and if we, as staff (whether it be Wakefield or Stearns), missed that Shoreland portion, that certainly wasn't on the applicant. Typically, those are the easy ones for the local government unit when it's obvious that it's in Shoreland when it's next to the water but sometimes when it's a little further away, it makes it much more difficult.

Chairperson Massmann commented this was probably the simplest and cheapest solution rather than hiring a surveyor to try to prove the accurate acreage and then if they were a tenth of an acre off, they would still be in the same situation they are in right now.

No one was present to speak at the public hearing.

Mr. Brink stated that he did not have anything to add to the staff report and discussion.

Motion was made by Jacob Holck, seconded by Dave Gamradt, to close the public hearing. Motion carried unanimously.

After the Fact Findings.

When considering an after-the-fact variance request, the Board of Adjustment should consider these additional factors when deciding the statutory criteria:

- a. **Did the applicant act in good faith and attempt to comply with the Ordinance?** (Obtain any other permits, what measures could be stated on the record);
- b. **Did the applicant make a substantial investment?** (State why it is or is not);
- c. **Is the construction completed?** (If not, how far along is the project);
- d. **Are there similar structures in the area?;** and
- e. **Are the County's benefits outweighed by the applicant's burden if the applicant were required to comply with the Ordinance?**

1. Is the proposed use allowed in the zoning district in which the subject property is located? (State the type of use and district for the record.)
  - Yes. It is in an A-40 district and this is allowed.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)
2. Is the variance in harmony with the general purposes and intent of the official control? (Specifically which purpose statement is met or not met for the record.)
  - Yes. The A-40 district allows for residences and it allows for agricultural buildings. This building was built with a feedlot permit so it's an agricultural accessory structure and it would be allowed.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)
3. Is the variance request consistent with the Comprehensive Plan? (State specifically which goals or objectives are met or not met for the record.)
  - Yes. Section 9.3 also states that A-40 is the more flexible zoning for this and this was a farm (now it's not). It was just missed somewhere along the line in the permitting process but the flexibility is there.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)
4. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control? (State why it is reasonable for the record.)
  - Yes. It is a rural area that allows for hobby farms and that's a good use in this district.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)
5. Is the plight of the landowner due to circumstances unique to the property not created by the landowner? (State what is unique to the property for the record.)
  - Yes. It is as the landowner took all the steps of getting all the permits and meeting all the requirements and expecting that everything was correct.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)
6. Will the variance maintain the essential character of the locality? (State how the request is similar to what others have in the area, number, size, setback.)
  - Yes. Nothing will change.  
**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)

7. The need for the variance involves more than economic considerations? Yes or No?

- Yes. Economics were not a factor in this case.

**OVERALL BOARD CONSENSUS: YES** (All 7 members voted yes.)

## DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Michael Proell, seconded by Jacob Holck, to approve the request to leave as constructed a 4,800 square foot detached accessory structure on a tract of land that is less than 9.5 acres in the Shoreland Overlay District. Motion carried unanimously.

### **4. Request for a variance from Sections 5.1.2 & 10.2.11A (2) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Shirley Ringhand, St. Joseph, Minnesota. File #P-010646.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Shirley Ringhand, St. Joseph, MN from Sections 5.1.2 & 10.2.11A(2) of the Stearns County Land Use & Zoning Ordinance #439 to alter a roofline of a legal nonconforming residential structure ahead of the established building line on Kraemer Lake, classified as a Recreational Development Lake. Said Ordinance does not allow for the expansion of a legal nonconforming structure unless the addition or alteration meets the minimum setback of 100 feet from the OHWL or behind the established building line of lakes classified as Recreational Development.

Applicant, Shirley Ringhand, was present at the meeting. The applicant's builder, Greg Wensmann, was also present.

David Knafla gave an overview of the staff report. No correspondence was received regarding this request.

It was noted that all Board members present visited the site prior to the meeting and there was no communication on site.

Shirley Ringhand stated it started as a leaking roof problem and it's on the main door of their living space. It is a tar and rock type of roofing, which is a little bit uncommon for this area so they looked to repair it. Not many people do that kind of repair and it wouldn't work so they looked for other options for reroofing the structure. The current roofline is just a very long slant and it causes water to drop right in front of the garage, creating a big puddle and ice in the winter. It is unsafe throughout that area. As they looked at reshingling the roof, they looked at the dormers as an opportunity to help change that water flow on the roofline, as well as, to create a little bit of a foyer area in the front. That foyer is currently four feet, which doesn't give a lot of space once the door is opened.

Greg Wensmann added that it is a 3/12 pitch roof so it is a little bit flatter than a typical roofline. They had looked at multiple ways of adding dormers and accomplishing what they were looking at and they ended up coming up with this plan knowing that it may infringe on that 100 foot OHWL but yet it also had the least amount of impact on that 100 foot setback. He calculated 20 square feet of roof area that would be encroaching on that area so combined, they felt it was



probably the best option to accomplish what the applicant wanted but yet he, as a contractor, could construct it knowing that it wouldn't be leaving the applicant with potential ice dams or problems from having multiple angle changes and valleys and real intricate roof system.

Dennis Gregory asked staff if the garage property line setback should be taken into account in this variance request. Mr. Knafla responded that because it is an existing legal nonconforming structure, the roofline that they are proposing would meet the 10 foot property line setback. The structure is still a legal nonconforming structure and they are proposing an alteration that meets the setback requirement.

No one was present to speak at the public hearing.

Motion was made by Michael Proell, seconded by Jacob Holck, to close the public hearing. Motion carried unanimously.

#### Findings of Fact.

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?
  - Yes. It is currently in R-1 zoning district and roof replacement or adding or remodeling is allowed.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. It is R-1 district and Section 9.9.1.A is for a variety of residential opportunities, housing prices and styles. Just Section 9.9.1, by itself, deals with the residential development in a Shoreland District and this is in harmony with that.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
3. The variance will be consistent with the Comprehensive Plan? Yes or No?
  - Yes. It is a residential year round home and by making these modifications to the roof, it is going to be a better situation for the homeowner. There would be no impact to the lake.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?
  - Yes. The applicant bought the home in this current condition and they are just modifying the structure.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?
  - Yes. It is all residential structures in the area and there would be no changes of that. There weren't any other houses that had that type of a roof so this makes it blend in with the community a little bit better, too.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

6. The variance, if granted, maintains the essential character of the locality? Yes or No?
- Yes. It will not change.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
7. The need for the variance involves more than economic considerations? Yes or No?
- Yes. The applicant is trying to direct the rainwater.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

## DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Michael Proell, seconded by Dave Gamradt, to approve the request to alter a roofline of a legal nonconforming residential structure ahead of the established building line on Kraemer Lake, classified as a Recreational Development Lake.

Dennis Gregory amended the motion to include a condition to remove impervious lot coverage.

Amended motion was approved by Michael Proell, seconded by Dave Gamradt to approve the request to alter a roofline of a legal nonconforming residential structure ahead of the established building line on Kraemer Lake, classified as a Recreational Development Lake, with the condition that 47 square feet of impervious lot coverage be removed prior to the issuance of the Construction Site Permit. Motion carried unanimously.

### **5. Request for a variance from Sections 5.1.2 & 10.2.11A(1)(b) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Randy & Kimberly Werner, South Haven, Minnesota. File #P-010564.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Randy & Kimberly Werner, South Haven, MN from Sections 5.1.2 & 10.2.11A(1)(b) of the Stearns County Land Use & Zoning Ordinance #439 to leave as constructed an addition on to a legal nonconforming structure 50 feet from the OHWL of the Clearwater River, classified as a Tributary River, to leave as constructed a 30 foot by 40 foot accessory structure 55 feet from the OHWL of the Clearwater River and to construct additions on a legal nonconforming structure 50 feet from the OHWL of the Clearwater River. Said Ordinance does not allow for the expansion of a legal nonconforming structure, requires a structural setback of 100 feet from the OHWL of the river for accessory structures and requires that additions or alterations to a legal nonconforming structure meet the structural setback of at least 100 feet from the OHWL of river segments classified as Tributary Rivers.

Applicants, Randy and Kimberly Werner, were present at the meeting.

David Knafla gave an overview of the staff report. No correspondence was received regarding this request.

It was noted that all Board members present, except David Peschel and Michael Proell, visited the site prior to the meeting. Dennis Gregory stated he talked with the applicant's son while on site.

Randy Werner stated that what they are planning on doing would be less impact on the property. Mr. Werner presented his floor plan to Board members. He identified the existing areas that would be torn down, including the footings, and identified the proposed new areas.

Dennis Gregory stated his concern is with moving the structure closer to the river and asked if there should be more ability to collect some of that water before it gets to the river. He questioned the plans for the retaining wall and buffer. Mr. Werner responded that they would replace the existing retaining wall with another retaining wall. They talked about planting trees in that area as a buffer. He indicated the low area on the site map.

Michael Haehn asked the applicant how high the water has ever come up. Mr. Werner responded that in the rain event in the 1980s, the water came up to the garden wall. The basement is still there and has never had water in it.

Mr. Werner stated that they are not adding anything closer to the river than what is there.

Mr. Knafla responded to Mr. Gregory's queries that the 30'x40' detached accessory structure appears to have been built sometime during the 1980s. They received past permits for the structure identified as a bait shop. Mr. Werner stated that they did run a bait shop there for 36 years. Mr. Knafla added that all the other structures were constructed prior to the official controls. In his opinion, the bait shop was permitted and constructed prior to the construction of the 30'x40' accessory structure.

No one was present to speak at the public hearing.

Motion was made by Michael Haehn, seconded by Dennis Gregory, to close the public hearing. Motion carried unanimously.

After the Fact Findings to leave as constructed a 30 foot by 40 foot accessory structure 55 feet from the OHWL of the Clearwater River.

When considering an after-the-fact variance request, the Board of Adjustment should consider these additional factors when deciding the statutory criteria:

- a. **Did the applicant act in good faith and attempt to comply with the Ordinance?** (Obtain any other permits, what measures could be stated on the record);
  - b. **Did the applicant make a substantial investment?** (State why it is or is not);
  - c. **Is the construction completed?** (If not, how far along is the project);
  - d. **Are there similar structures in the area?;** and
  - e. **Are the County's benefits outweighed by the applicant's burden if the applicant were required to comply with the Ordinance?**
1. Is the proposed use allowed in the zoning district in which the subject property is located? (State the type of use and district for the record.)

Mr. Gregory asked for the use of this building. Mr. Werner responded that it is used for tractor storage.

- Yes. This area is zoned A-40 for agricultural and the current use is agricultural storage, which is probably what it was originally built for.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

2. Is the variance in harmony with the general purposes and intent of the official control? (Specifically which purpose statement is met or not met for the record.)

- Yes. It is A-40 agriculture and a variance for an agricultural accessory building would be in harmony with the official controls.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

3. Is the variance request consistent with the Comprehensive Plan? (State specifically which goals or objectives are met or not met for the record.)

- No. Natural Resources Protection Goal 7, Objective 3 is to recognize the relationship between land use and water quality and given the proximity to the river and that there is really nothing between those buildings and the river, this is not consistent with the Comprehensive Plan.

- Yes. There are other sheds located on the same property with the same setback and they were prior to the official controls. Goal 7, Objective 1 is to evaluate land use changes based on how they respond to existing natural systems and their potential impacts on natural resources. The building has been there since the 1980s and how much impact it has had on the environment isn't probably known but there are other buildings and other things in that same area and same use that the impact on this one building is probably minimal compared to the other buildings on the property. The removal of the building may cause more environmental problems than it leaves.

**OVERALL BOARD CONSENSUS:** **YES** (6 members voted yes and 1 member voted no.)

4. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control? (State why it is reasonable for the record.)

- Yes. Storage for equipment for the applicant's operation utilizes that shed in a reasonable manner.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

5. Is the plight of the landowner due to circumstances unique to the property not created by the landowner? (State what is unique to the property for the record.)

- Yes. The problem was created by the landowner's father in the 1980s and was out of the applicant's control. He inherited the problem.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

6. Will the variance maintain the essential character of the locality? (State how the request is similar to what others have in the area, number, size, setback.)

- Yes. The building has been there for 30-40 years so it is not going to change the character.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

7. The need for the variance involves more than economic considerations? Yes or No?

- Yes. Economics did not play a part of this discussion.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

## DECISION

Based upon the evidence submitted regarding this variance application, motion was made by David Peschel, seconded by Jacob Holck, to approve the request to leave as constructed a 30 foot by 40 foot accessory structure 55 feet from the OHWL of the Clearwater River. Motion carried unanimously.

### Findings of Fact to construct additions on a legal nonconforming structure 50 feet from the OHWL of the Clearwater River.

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?
  - Yes. Remodeling of an existing home is allowed in A-40 zoning district.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. It is A-40 district and building and having a residential structure is in keeping with the controls.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
3. The variance will be consistent with the Comprehensive Plan? Yes or No?
  - Yes. Growth and Development Goal 6, Object 1 is to provide diversity of housing prices and styles to meet the needs of the residents of different ages, incomes and lifestyles.
  - No. Natural Resources Protection Goal 7, Objective 3. The applicant did not provide a defined plan on the buffer.

Board members, staff and applicant reviewed and discussed in more detail condition options for creating and preserving a buffer between the river and driveway that runs between the house and Clearwater River. The applicant provided information that was discussed when he met with staff from the Stearns County Soil and Water Conservation District (SWCD).

**OVERALL BOARD CONSENSUS:** **YES** (6 members voted yes and 1 member voted no.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?
  - Yes. This is a residential dwelling and is a reasonable manner.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?
  - Yes. This is a unique property (topography).

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
6. The variance, if granted, maintains the essential character of the locality? Yes or No?
  - Yes. The character of the neighborhood won't change by putting the garage and the additions up.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

7. The need for the variance involves more than economic considerations? Yes or No?
- Yes. The situation is just to make the house more livable.
- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

### DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Dave Gamradt to approve the request to construct additions on a legal nonconforming structure 50 feet from the OHWL of the Clearwater River with the condition for a 10 foot wide buffer strip between the driveway and Clearwater River.

Board members, staff and applicant discussed the condition in greater detail.

Motion was revised by Dave Gamradt, seconded by Jacob Holck, to approve the request to construct additions on a legal nonconforming structure 50 feet from the OHWL of the Clearwater River with the condition that a 10 foot wide buffer strip between the driveway and Clearwater River be maintained with a 50 foot allowance of no buffer for river access to be determined by the property owner and Environmental Services staff prior to issuance of the Construction Site Permit. Motion carried unanimously.

**6. Request for a variance from Sections 5.1.2 & 10.2.11A(2) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Laurie Beste, Sauk Centre, Minnesota. File #P-010631.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Laurie Beste, Sauk Centre, MN from Sections 5.1.2 & 10.2.11A(2) of the Stearns County Land Use & Zoning Ordinance #439 to rebuild and expand on an existing foundation a residential dwelling 74 feet from the OHWL of Sauk Lake ahead of the established building line, rebuild an existing deck 60 feet from the OHWL of Sauk Lake ahead of the established building line and construct a new 14 foot 4 inch by 6 foot deck 80 feet from the OHWL of Sauk Lake ahead of the established building line. Said Ordinance does not allow for the expansion of a legal nonconforming structure unless the proposed alteration or addition meets the minimum setback of 100 feet from the OHWL or is at or behind the established ~~line-of-lakes~~ building line classified as Recreational Development.

Applicants, Laurie Beste and Loren Beste, were present at the meeting.

David Knafla gave an overview of the staff report. Mr. Knafla read correspondence from Thomas M. Meyer, Building Inspector, regarding his inspection of the foundation and walls. This correspondence is on file as part of record.

It was noted that all Board members present visited the site prior to the meeting. Chairperson Massmann stated she spoke with Laurie Beste while on site.

Laurie Beste stated their variance request was approved last fall and as they got further into the project, it was found that they would lose another foot in ceiling height to get the proper ductwork for HVAC. It was suggested by the lumber yard that moving the current structure and adding the two course of block would be a good way to get the HVAC services that they need.

Then everything would be new because they were going to demolition several of the interior walls as well and change the roofline. They are proposing to do the same thing but just with raising that height.

Michael Haehn asked if core fill and rod is required in the blocks. Loren Beste responded that right now, they don't believe that it's required but once the house is removed, it will be inspected. One of the options recommended to them is that they will probably core fill it to strengthen it. They want to protect their investment by making sure that they have a solid foundation.

Dennis Gregory asked the applicant if they had considered the option to just start over on a spot that was within compliance. Mr. Beste responded that they considered it but they still have a good value with the current foundation and with the costs of foundations today, there is a tremendous savings by using that current foundation. They like the location of where the existing structure is at and that's why they are proceeding with new construction on the current foundation.

Mr. Beste indicated the location of the sewer system and drainfield on the site map for Mr. Gregory.

Ms. Beste responded to Chairperson Massmann's query that the majority of the deck to be expanded is currently there. It extends the entire length of the house as it is now. They would like to add six feet behind the third stall garage addition rather than having just the four foot walkway so that it matches up with the rest of the deck that is already there.

Mr. Gregory asked if they have a raingarden proposed and asked where the water flows to with the gutter system on the house. Mr. Beste responded the water currently flows out on the lawn. They are proposing to have the same gutter system but they would have it drain into a rock basin so that it would be better than it is today.

No one was present to speak at the public hearing.

Motion was made by Dave Gamradt, seconded by Dennis Gregory, to close the public hearing. Motion carried unanimously.

### Findings of Fact.

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?
  - Yes. It is R-1 zoning and remodeling of housing is allowed.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. The purpose in Section 9.9.1 is to allow residential development consistent with the Shoreland District. This house is not moving from its current location.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

3. The variance will be consistent with the Comprehensive Plan? Yes or No?

- Yes. The applicants are taking care of the water quality issues in the runoff under Goal 7, Objective 3 of Natural Resources Protection so it is very consistent with the Comprehensive Plan.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?

- Yes. It is a single family home and that is what the applicants are going to use it for. It is reasonable.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?

- Yes. When the applicant purchased the property, the house was located where it is today. They do not plan to change that location.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

6. The variance, if granted, maintains the essential character of the locality? Yes or No?

- Yes. It is going to blend in with the rest of the residential homes in that area. It would actually be nicer.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

7. The need for the variance involves more than economic considerations? Yes or No?

- Yes. Financial considerations were not brought up in this request.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

### DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Dennis Gregory, seconded by Michael Haehn, to approve the request to rebuild and expand on an existing foundation a residential dwelling 74 feet from the OHWL of Sauk Lake ahead of the established building line, rebuild an existing deck 60 feet from the OHWL of Sauk Lake ahead of the established building line and construct a new 14 foot 4 inch by 6 foot deck 80 feet from the OHWL of Sauk Lake ahead of the established building line with the condition that a plan for managing the stormwater runoff from the roof, with gutters, be submitted to and approved by Environmental Services and then installed. Motion carried unanimously.

Board members took a two minute break.



**7. Request for a variance from Sections 9.9.9A(3) & 10.2.11A(2) of the Stearns County Land Use & Zoning Ordinance #439, submitted by Richard & Jennifer Krauter, Lakeville, Minnesota. File #P-010810.**

Chairperson Massmann opened the Public Hearing and read the variance application submitted by Richard & Jennifer Krauter, Lakeville, MN from Sections 9.9.9A(3) & 10.2.11A(2) of the Stearns County Land Use & Zoning Ordinance #439 to locate a 12 foot by 20 foot (240 square feet) residential accessory structure 43 feet from the centerline of a township road and to construct a 476 square foot deck addition onto a residential dwelling ahead of the established building line. Said Ordinance requires a structure setback of at least 63 feet from the centerline of a township road and requires additions to a residential dwelling to be at or behind the established building line.

Applicant, Richard Krauter, was present at the meeting.

David Knafla gave an overview of the staff report. Mr. Knafla read correspondence received from Marlin Ramler, 16833 Oster Point Road, in support of this variance request. This correspondence is on file as part of record.

It was noted that all Board members present, except Michael Proell, visited the site prior to the meeting. Michael Haehn, Chairperson Massmann, Dennis Gregory and Dave Gamradt all indicated that they spoke to the applicant while on site.

Richard Krauter stated he was originally going to apply for the deck alone but then his neighbor was building a house and had to remove the shed. The shed location, to make it legal without a variance, he would have to move it 16 feet closer to the lake and that does not make any sense at all. That is a deeded access. It is not managed by the County, the City or by the Township.

Dennis Gregory asked the applicant what surface he plans to put underneath the deck. Mr. Krauter responded that there are two retaining walls. One is old concrete and falling apart. That one will be replaced by boulders so more of a natural setting. The other side is going to be expanded a little bit and eventually be used as a patio underneath the deck area. He confirmed that it would not be cement. It would be pervious pavers.

No one was present to speak at the public hearing.

Motion was made by Michael Haehn, seconded by Dennis Gregory, to close the public hearing. Motion carried unanimously.

**Findings of Fact.**

1. The proposed use is allowed in the zoning districts in which the subject property is located? Yes or No?

- Yes. Adding a deck and having a storage shed is allowed.

**OVERALL BOARD CONSENSUS: YES (All 7 members voted yes.)**

2. The variance will be in harmony with the general purposes and intent of the official control(s) (any related Ordinances)? Yes or No?
  - Yes. Section 9.9.1 discusses residential development in the Shoreland District and there is room for accessory structures as well.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
3. The variance will be consistent with the Comprehensive Plan? Yes or No?
  - Yes. This is a seasonal home so Goal 6, Objective 3 in Growth and Development indicates the appropriate location for seasonal homes in settings that afford a variety of natural amenities. This would meet that.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

The variance may be granted if there are Practical Difficulties in complying with the official control(s) as determined by items 4 through 7 below:

4. The property owner proposes to use the property in a reasonable manner? Yes or No?
  - Yes. It is currently a lake cabin and that is what the applicant is using it for. It is just adding a deck for additional use and comfort. That is a reasonable request.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? Yes or No?
  - Yes. Given the size of the lot, the current location of the house and as the applicant indicated, it is more like a private road than a Township road and the traffic is very low. Locating the shed that close is fine and given where the house is, the deck on that side of the property is not going to change any of the conditions.

Staff confirmed that the road is not maintained by the Township.

- OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
6. The variance, if granted, maintains the essential character of the locality? Yes or No?
    - Yes. The character of the locality is not going to change. The area has lake cabins and some of them have accessory structures.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)
  7. The need for the variance involves more than economic considerations? Yes or No?
    - Yes. Economics were not a part of this discussion.

**OVERALL BOARD CONSENSUS:** **YES** (All 7 members voted yes.)

## DECISION

Based upon the evidence submitted regarding this variance application, motion was made by Michael Haehn, seconded by Dennis Gregory, to approve the request to locate a 12 foot by 20 foot (240 square feet) residential accessory structure 43 feet from the centerline of a township road and to construct a 476 square foot deck addition onto a residential dwelling ahead of the established building line. Motion carried unanimously.

## ADJOURN

Motion was then made by Jacob Holck, seconded by Dennis Gregory, to adjourn the meeting at 8:50 p.m. Motion carried unanimously.