

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, February 1, 2018 at 7:00 p.m.**

I. Call to Order

- A. Roll Call - The meeting was called to order by Chair Michael Streiff at 7:00p.m. Members present were: Preston Bauer, Michael Streiff, Tom Sammon, Charlie Peters. Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Planner Nicole Bonde-Jones, Administrative Coordinator Anna Aguilar. Others present: see sign-in sheet.

B. Reading of Notice

Motion by Bauer, seconded by Sammon, to read the notice into the minutes.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
EXCUSED:	Horejsi

C. Motion by Peters, seconded by Sammon, to approve the agenda as presented.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
EXCUSED:	Horejsi

D. Motion by Sammon, seconded by Bauer, to approve the minutes of January 4, 2018.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
EXCUSED:	Horejsi

II. New Business

1. Variance/Smith - Section 8, Wells Township

Jason & Emily Smith have applied for a 9-ft variance to the 10-ft side property line setback, a 5-ft variance from the 75-ft Lake setback and an 18% variance from the 25% lot impervious surface coverage to allow for an attached garage addition. The property is described as: Part of Government Lot 7 of Section 8, Wells Township, Rice County, Minnesota. The property address is: 16890 Elmore Way, Faribault, MN 55021. PID #: 10.08.3.75.005. The property is Zoned GDS, General Development Shoreland.

Motion by Bauer, seconded by Peters, to approve the variance request with the following conditions and findings for Jason & Emily Jensen. The property is located in Section 8 of Wells Township.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Horejsi

CONDITIONS OF APPROVAL - Smith

1. The variance is to allow for a 300-sqft attached garage addition onto a house located 1-ft from a property line and onto a lot with over a 25% impervious surface, subject to

compliance with all other regulations.

2. A building permit shall be obtained and construction of the building started within one year of variance approval or the variance will be void.

3. Final landscaping shall require that 600-sqft on the lot be planted and maintained as a natural vegetation buffer. The buffer area shall include a minimum of 30-ft along the lakeshore to a landward depth of at least 10-ft. Planting list must be approved by the Rice County Environmental Services Office prior to planting. Planting must be completed no later than August 1, 2018 and must be permanently maintained thereafter. The required 600-sqft vegetative buffer size may be reduced incrementally by an equal amount if current impervious surface area is permanently converted to a pervious surface.

4. No additional impervious surfaces shall be added to the lot.

5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA)

TM - The blank is for the square footage of the garage. I was not able to determine it based off the documents submitted. We left it blank to get that information from the applicant.

TS - My understanding is that there is no further encroachment?

TM - No the proposed addition does not encroach on any of the setback requirements.

PB - Is there currently any natural vegetation buffer since they are already over the impervious surface?

TM - It is currently over the impervious surface. It is tough this time of year to tell exactly what is there. There does appear to be a walkway from the home to the water and then lawn and some trees.

MS - Are you able to show on the map the group septic? Any idea how many houses come into it?

TM - I do not have that info. I believe this one connects northeast of this location, within a quarter mile of the site.

The BOA asked the applicants, Jason & Emily Smith (JS & ES), to come forward to add comments or answer questions regarding the request.

JS - The question with the septic, there is approximately 40 people on it and about half a mile away. Everyone has a tank on the property which is inspected every year or every other. It is in compliance. I checked with DeGroot at the county.

MS - Anything additional you would like to add?

JS - We do have a current survey, it was done last year when we bought the property. We do have an 11-ft easement to the side to the north. We do not plan on adding anymore impervious surface. One thing is, all that private drive, I am the one who usually plows the majority of it. It would be nice to be able to park my truck and plow in the area. This would also change the peak of the roof, so instead of the wind coming off lake and dropping down right in front on my place which creates a drift. We would be able to change that peak to make it so that wouldn't happen. We would have better accessibility because this is the house I plan on living in for my lifetime. I just want to make it better for me and my family.

CP - You are familiar with 5 conditions?

JS - Yes, we were talking about the buffer. I was wondering if there is anything we can do beside a buffer? We do have some trees and a big hill side. There really isn't anything that can come and run through as far as water or sediment. I was looking at the Cannon River Watershed project which our association works with regularly. We have a big slew for filters for water clarity and our wildlife. I only have 65-70-ft of lakeshore, it would be nice to use that as a beach front like it has been.

CP - I don't know if we can change the buffer because of run-off to lake. You can still maintain your path.

JS - Trent mentioned there might be some other options as far as putting a berm there. I know one of my neighbors on the north side is here and he probably would not care for a lot of wildlife vegetation being planted there. With taller plants, it will create more mosquitoes. I want to do what can to make the lake as clean as possible, but in the same sense, sand is also a really good filter. My beach is sand, so I don't know if there is a possibility to do some type of a berm out front that could slow down that water for it to seep into the ground prior to getting to the lake.

CP - We only care that you work something out for that condition. A buffer is a condition in most of these when the impervious surface has exceeded the allowed amount.

TM - With the 50% lake frontage requirement, that can be split up along the frontage with the way it is worded. That is usually worked out with the applicant between our office and them on where that buffer would be. We usually stick to that amount but could vary it some if you feel appropriate on this site. Whenever our impervious surface is significantly over, that is when we have a buffer. We are also encouraged by the DNR to require this type of buffer with variances when this amount of impervious surface. I am not sure if there is different tool to implement that. The buffer has typically been utilized not just for run-off from the lot but also as a buffer from the lake forward for more of a natural look.

JS - That is one of my concerns is that vegetation. I know there have been several around my place that did not have to have that vegetation put in. I am going to be there forever, I don't want to be swimming in a bunch of garbage.

CP - I think it is the impervious part that triggered the buffer. Another question is with condition #1, we have a blank for the amount of square feet of the garage addition. We need to fill that in.

JS - I plan on putting in a 10-ft by 30-ft from an aerial view. From the front view we would be changing the peak. For impervious surface, we are not adding any but the garage addition would be 10-ft by 30-ft. Plus another 30-ft by 30-ft which would be about 900-sqft. So with the 900 and 300-sqft, it would be about 1200-sqft.

PB - Do you know if your peak height will be in compliance?

JS - Yes, it will be. The max peak height is 35-ft and I will be under that.

TM - For the condition, the actual increase of the foot print of the home is 300-sqft, which is what I was looking for.

MS - So the blank in #1 is 300-sqft, not 1200.

JS - Is there anything else or compromise on the buffer? Like if I got rid of some of the impervious surface, would that be equivalent to a certain amount to offset that 300-sqft. Being on the lake, you want the lake frontage. That is what you pay for.

PB - We have always gone with this type of condition. You could probably work with the County staff in regards to that.

TM - We have in other situations, where the buffer did not have as much frontage but was deeper with the same type of square footage. At that point it might be a rain garden instead or something like that. We could write the condition allowing for removal of existing impervious surface to offset that for some portion of it. I can work on a condition while you hear the public.

MS - We will let Trent work on the condition while we open it up to the public and then bring it back up here and discuss it.

Chair Streiff opened the public testimony portion of the item to the public and the following spoke:

Jeff Gillen (JG) - I am a neighbor of Jason's, a few houses down. The question I have is that 50% of his length of property line on the lakeshore for impervious surface. Is that how the condition was written?

TM - The buffer requirement would be 50%. There is approximately 70-ft there so the buffer would be roughly 35-ft.

JG - Ok, the 50% is for a buffer. That is a concern I have with being a neighbor and we all bought our houses for our beaches. The value of the land is based on the footage of the beach, not the piece of property it is on. I have seen them on other properties and they are grassy, weedy areas. I don't know what can be done but I have seen them grow out of control to where there are mosquitoes. This is a concern with our children playing on the beaches. As of right now, that stretch of beach runs the entire east shoreline of the lake and it has been that way for years. It has been a sandy beach the whole time and everybody loves that. We consider the beach natural to us and we are very concerned about run-off. We have a very strong lake association that works with various groups doing run-off projects and that but we focus on waterway and ditches. As Jason point out, to the right of the driveway, for at least a quarter mile, is hillside that trends water away from the lake and into the sloughs that are on the east side of the lake here. I would like for those things to be brought into consideration. We bought our homes for the beaches and nobody cares more about the lake then us. We are all members of and active in our lake association.

PB - Do you bring sand into the shoreline?

JG - No, the way it works is the sand is there and it has always been there. The sand will go up and down over the ears due to ice heave. The ice heave has the biggest impact on the lakeshore. Right now, I have a natural berm because of the way the ice is heaving but in two years that berm might gone. It might stay, it might be down a little bit with the kids playing on the beach, it pushes the sand down. The next year we get the right winter, it pushes the sand right back up. The lake maintains that beach and it naturally works itself. I have never heard of anyone bringing their own sand in.

Chair Streiff closed the public testimony portion of the item to the public.

Discussion:

TM - I have a couple ideas with changing condition #3 to say final landscaping shall require a 600-sqft buffer including at least 30-ft along the lakeshore area with a minimum 10-ft depth back from the lake. This allows for some flexibility for the sizing of that. The second part of that would say the vegetative buffer square footage can be reduced by conversion of equal amount of existing impervious surface converted back to pervious surface. The buffer could be completely offset if you wanted to remove enough impervious surface from the site.

MS - Thoughts on the new wording?

TS - Trent, you had mentioned a rain garden, can you explain the rain garden and if it would suffice.

TM - The only real difference with the vegetation buffer it is natural vegetation and a rain garden is still natural vegetation but usually a shallow depression area to short term hold water for a day or 24 hours. Not enough to where it creates a mosquito issue but to intercept and slow down water for absorption.

TS - A rain garden would satisfy this buffer?

TM - Part of this buffer could be a rain garden. With having the 30-ft minimum and the 10-ft minimum, that would allow it to come back further to get the 600-sqft. It could be wider or deeper but those are the minimums.

MS - Will the applicant come back forward and we can talk this through.

JS - So the rain garden, does that have to be on the lake side or right on the sand beach?

TM - The natural vegetation buffer just has to be 30-ft along the lakeshore and a minimum 10-ft back from the lakeshore. It could potentially be anywhere else on the lot back from there to achieve that. There is some flexibility in the design.

CP - But even the buffer could be backed off from the lakeshore?

TM - Yes, as long as it meets those two minimum requirements to achieve the 600-sqft or by

removing an equal amount of impervious surface to decrease buffer square footage.
JS - I think we can work with that. Is there a way since we are only adding 300-sqft but have to give 600-ft, is there a compromise there? I mean if we are only adding 300-sqft as an addition but we have to put twice as much as a buffer. That would be a total of 900-sqft I will have to change with the 300-sqft for the addition and 600-sqft for the buffer.

CP - The reason that is triggered is because you are already over the impervious area on your lot.

JS - Sounds like as good an option as any.

MS - Just to recap, condition #1 is 300-sqft. Any other thoughts on Trent's rewording of condition #3?

CP - I think he had it worded well.

MS - Yeah, I like the wording.

PB - I'll make the motion for approval with the 5 conditions.

CP - I'll second that.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- Proposed use is allowed in the property's zoning district;
- Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;
- Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;
- The request stems from circumstances unique to the property, not one created by the landowner;
- If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;
- This is the minimum variance necessary to afford relief;
- Adequate sewage treatment and water capabilities can be provided;
- The variance would have no significant impact on public health or safety; and
- Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district

The findings were read by Bauer with the conditions as stated above and with the following additions by staff:

TM: It is an existing, well undersized lot with an existing home on the property. There is no further encroachment on any of the setbacks and there are several similar lots nearby.

Motion made, seconded, and approved.

III. Adjournment

Hearing no other items before the BOA, a motion was made by Bauer, second by Sammon, to adjourn the meeting at 7:26 pm. Motion carried 4-0.

Respectfully Submitted

Board of Adjustment Chair

Anna Aguilar
Administrative Coordinator

Michael Streiff