

**GREATER BEMIDJI AREA
REGULAR JOINT PLANNING COMMISSION MEETING**

**Thursday, August 22, 2019
6:00 P.M.**

**Council Chambers, City Hall
317 4th ST NW
Bemidji, MN 56601**

AGENDA

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| <ul style="list-style-type: none">➤ Call to Order/Roll Call➤ Pledge of Allegiance➤ Approve Agenda➤ Approve Minutes<ul style="list-style-type: none">• Thursday, July 25, 2019 Regular Meeting | Chair |
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NEW BUSINESS

- | | |
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| 1. Visitors | Chair |
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Public Hearings

- | | |
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| 1. <u>Northern Township</u> - V-19-31.01379.00 – Donald and Diane Jelinek | JC |
| 2. <u>City of Bemidji</u> - V-19-80.00053.01 – Richard Tobey | CM |
| 3. <u>Northern Township</u> - V-19-31.01886.00 – Steven and Cheryl Kroeger | JC |
| 4. <u>Northern Township</u> - V-19-31.01216.00 – Matthew and Dina Lee | CM |
| 5. <u>Northern Township</u> - V-19-31.01266.00 – Richard and Laura Block | JC |

OTHER BUSINESS

- | | |
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| 1. Director's Report | CM |
| 2. Upcoming Meetings <ul style="list-style-type: none">• September 11, 2019 6:00 pm JPB Regular Meeting• September 19, 2019 6:00 pm JPC Regular Meeting• October 9, 2019 6:00 pm JPB Regular Meeting• October 24, 2019 6:00 pm JPC Regular Meeting | Chair |
| 3. Adjourn | Chair |

**MINUTES
GREATER BEMIDJI AREA
REGULAR PLANNING COMMISSION MEETING**

**August 22, 2019
6:00 p.m.**

**City Hall
Council Chambers**

CALL TO ORDER: Chair Chris Lahn called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:00 p.m., roll call was taken and the pledge of allegiance was recited.

MEMBERS PRESENT: Berg, Faver, Steffen, David, Heinonen, Lahn, Lemmer, Smith

MEMBERS ABSENT: Miller

STAFF PRESENT: Steve Jones, Jamin Carlson, Bobbi Karpinski

OTHERS: Donald & Diane Jelinek, Noemi & Harry Aylesworth, Cathy Williams, Richard Tobey, Matt Murray, Richard & Laura Block, Matthew Lee, Leslie & Martha Klevay, Rich Moen, Marilyn Viator, Steve Kroeger, Vicky Tobey

APPROVAL OF AGENDA:

Motion by Heinonen, second by Steffen, to approve the agenda as presented.

Motion carried unanimously.

APPROVAL OF MINUTES:

Motion by Smith, second by Heinonen, to approve minutes from the July 25, 2019, Greater Bemidji Area Regular Joint Planning Commission.

Motion carried unanimously.

NEW BUSINESS:

VISITORS:

Richard Moen is building a group home at 1727 Delton Avenue, and he described a need for additional parking to accommodate staff, visitors, and larger vehicles that are needed for transporting handicapped clients. Staff explained that the paving has already been done, but the R-6 zoning district has a 50% maximum impervious surface, and this site is already at 86%. Staff suggested removal of 1900 square feet of pavement, or requesting a variance as options for the applicant's next step. The JPC recommended that applicant proceed with the variance process.

Public Hearing:

Carlson presented the first case:

PLANNING CASE – V-19-31.01379.00 – Donald and Diane Jelinek

Donald and Diane Jelinek are requesting multiple variances in order to rebuild a new single-family structure on their substandard lot of record located at 4029 Waville Rd NE in Northern Township. This property is within the (R-3) Suburban Residential Sewered Zoning District and Shoreland

Overlay. The requested variances are as follows:

1. A reduction of 22,552 square feet in lot size per the Section 901 requirement of 30,000 square feet;
2. An additional thirteen and nine-tenths (13.9) percent or one thousand and twenty-eight (1,028) square feet of impervious surface coverage throughout the property per Section 901;
3. A fifty and four/one-hundredths (50.04) foot reduction in lot width from the one-hundred (100) foot wide lot requirement per Section 901;
4. A side yard setback reduction of one and one/tenth (1.1) feet from the north lot line from the required ten (10) foot setback per Section 901;
5. A side yard setback reduction of one and one/tenth (1.1) feet from the south lot line from the required ten (10) foot setback per Section 901; and
6. A rear yard reduction of ten (10) feet from the required twenty (20) foot setback per Section 901.

BACKGROUND

The applicant's representative met with staff for a proposal to redevelop his client's lake lot on Lake Bemidji. This parcel had an approved variance along with MHB certification back in 2008 that was never acted upon and thus, a need for a new variance as the time limits have long expired. The 2008 variance was approved by both the JPB and MHB without all the impervious coverage calculated into the approved variance as only the structure was included in the calculation and not the driveway, sidewalk or patio. The new proposal would decrease the structure width from the 2008 proposal from forty (40) feet down to thirty-three (33) feet. Also, the impervious surface coverage would decrease from roughly 48% down to 38.9% from the previous approved plans, based on the additional impervious coverage not included on the variance. This legal non-conforming lot is currently developed with a legal nonconforming structure. The existing cabin sits approximately forty (40) feet from the ordinary high water level (OHWL) and the new proposed structure would be pushed back to the fifty-five (55) OHWL setback. Additionally, the current cabin has a setback from the south side yard setback of four and seven/tenths (4.7) feet to eight and nine-tenths (8.9) and the north yard setback from five and two/tenths (5.2) feet to eight and nine/tenths (8.9) feet. The applicants would like to build a new home on the property as shown on the site plans.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the ordinance Section 502 or Section 903, and nothing can be constructed or expanded without a variance.

Existing Conditions

This is an existing substandard lot of record consisting of a seasonal cabin, a detached garage, decks and walkways along with a dirt driveway. The current house is a single-family home along with a detached garage totaling 2,085 square feet of impervious surface coverage.

Proposed Improvements

The proposal would correct some encroachment and setback issues by bringing the new structure closer to conformity. The new proposed home will be pushed back from OHWL and the north side yard lot line and the existing attached garage that currently sits on the neighbor's property and in the right-of-way would be demolished. This proposal would be a benefit to Lake Bemidji and surrounding properties.

Landscaping Requirements

A landscaping plan would need to be submitted if any trees, shrubs, or vegetation would need to be removed within the shoreland protection zone. Erosion control would have to be in place before

any construction or demolition begins and remain intact until suitable vegetation is established and in place.

Stormwater Mitigation

Staff would recommend that the applicant install a gutter system on the new structure to direct stormwater towards a mitigation system such as raingardens, swales, or even a pervious pavement system in lieu of concrete or bituminous surface. This will prevent runoff from entering Lake Bemidji or onto an adjacent property. Applicants have submitted a stormwater mitigation plan showing two (2) underground storage and infiltration catch basins. Total required retention volume for stormwater run-off for this property is eighty-six (86) cubic feet and applicants have proposed a retention volume of one-hundred and eight (108) cubic feet.

Neighborhood Comment

No comments at the writing of the report.

Mississippi Headwaters Board (MHB)

A phone meeting was held with Tim Terrell (MHB Director) and Craig Gaasvig (MHB board member) about the planning case to acquire their feedback.

Both individuals stated that this lot, along with several other lots around Lake Bemidji are difficult to develop or redevelop on due to their small lot sizes and lot widths. Both are in favor of pushing structures and impervious surface coverage away from the OHWL. Updated plans have been submitted and both the MHB representatives stated they could support a project with an impervious surface coverage of around 38% down from the original submitted plans of 46%.

Comprehensive Plan References:

The newly adopted Greater Bemidji Area Comprehensive Plan has identified a few objectives and strategies that supports the variance request and is in keeping with the spirit, purpose and intent of the Plan.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

Natural Resources Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

Strategy #2: Use shoreland restoration incentives and demonstrate success on public and private property to increase natural shoreland. Encourage shoreland restoration projects through incentives or flexibility could potentially reduce shoreland variances. Displaying the benefits of shoreland restoration can increase awareness and understanding of the process that could result in a positive impact on shoreland.

RECOMMENDATIONS

Staff recommends approval of five (5) variances in order to construct a new single family structure along with a new compliant septic system at 6315 Lavinia Rd NE. The variances are as follows:

1. A reduction of 22,552 square feet in lot size per the Section 901 requirement of 30,000 square feet;
2. An additional thirteen and nine-tenths (13.9) percent or one thousand and twenty-eight (1,028) square feet of impervious surface coverage throughout the property per Section 901;
3. A fifty and four/one-hundredths (50.04) foot reduction in lot width from the one-hundred (100) foot wide lot requirement per Section 901;
4. A side yard setback reduction of one and one/tenth (1.1) feet from the north lot line from the required ten (10) foot setback per Section 901; and
5. A side yard setback reduction of one and one/tenth (1.1) feet from the south lot line from the required ten (10) foot setback per Section 901.
6. A rear yard/other road setback reduction of ten (10) feet from the required twenty (20) foot setback per Section 901.

Approval recommended with the following conditions:

1. Buildings shall be staked by professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. Applicant shall obtain approval from Northern Township for driveway widening off of Waville Rd. NE.
7. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Public Hearing opened at 6:18 p.m.

Cathy Williams lives one (1) block north of the applicant and asked for clarification because Mr. Carlson stated the setback request was 1.1 feet, yet his letter stated it was 4.1 feet. Staff explained that the letter contained the original request, but the report was based on updated plans, so the applicant is seeking a side yard setback reduction of only 1.1 feet. Williams also asked why the project is good for the community. Staff explained that the house will be farther from the lake and has wider side yard setbacks. Donald Jelinek and Matt Murray, representative, summarized that the recent variance was requested because the 2008 variance did not account for impervious surfaces of a driveway, sidewalks or patio. Murray stated that the updated plans are a big improvement because of the reduced size of the structure. He stated that the area's average impervious surface is 3,400 square feet, and this home will be below that average. Commissioner Smith described the two (2) water retention areas on the site plan and Murray explained that they are designed to handle an instantaneous one (1) inch of rainfall, and anything more will go to the overflow. Murray also explained that the home is three (3) feet above the OHW with a rock trench on top of the ground which holds and infiltrates the water. Smith commented that it is a good plan. Williams asked if this water retention means that no increased water will go into neighboring areas. Murray explained that if the retention area fill up, it will drain towards the lake.

Public Hearing closed at 6:27 p.m.

Motion by Steffen, second by Heinonen to approve six (6) variances in order to construct a new single family structure along with a new compliant septic system with the following conditions:

1. Buildings shall be staked by professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. Applicant shall obtain approval from Northern Township for driveway widening off of Waville Rd. NE.
7. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings:

1. **Has the applicant demonstrated a practical difficulty?**
Yes. This is an existing small lot of record that is currently developed, the surrounding area is heavily developed on small substandard lots. Without a variance, the lot could not be improved or further developed.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
Yes. This is a previously platted and developed small lot of record. No improvements could be made to the residence or redevelopment on this property can be permitted without approval of a variance.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
Yes. This request is proposing to make use of the property in a reasonable manner while making improvements. Both the Ordinance as well as the Comprehensive Plan encourage development or redevelopment while preserving or maintaining the character of neighborhoods.
4. **Can the variance be granted without altering the essential character of the surrounding area?**
Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years. The majority of these properties have transitioned from seasonal cabins to year around homes.

Motion carried unanimously.

Commissioner Smith requested that his concerns be brought to the JPB:

1. Is the separation between the structure and side yard setback enough for the fire department standards?
2. Is the proximity to Waville Road an issue?

Jones presented the second case:

PLANNING CASE – V-19-80.00053.01 – Richard Tobey

Richard Tobey is requesting a variance from Section 1101 of the Ordinance for an eighteen (18) foot reduction from the required lot width of two hundred and thirty-three (233) feet in order to create a private access easement and to subdivide the parcel of land. This would allow for two additional single-family homes to be created in the (R-3) Suburban Residential Unsewered Zoning District within the City of Bemidji, parcel 80.00053.01.

BACKGROUND

The applicant is requesting to subdivide his lot of record in to two (2) total parcels. The existing lot is approximately 3.35 acres in size. The applicant's son owns the property to the north and is also looking to subdivide his lot in order to create an additional property. Both additional lots created by the applicant and the son would not have direct access to a public street, so both parcels require a permanent minimum thirty-three (33) foot wide private access easement before creation. All four (4) lots after subdividing would meet the minimum standards for lot size and lot width per Section 402 of the JPB Zoning & Subdivision Ordinance. However, the proposed lots do not meet the minimum standards per Section 1101 for subdivisions of land. The applicant plans to build on the front lot (proposed remainder parcel B) this fall by building an accessory structure and then constructing a new principal structure in the coming year.

PLANNING CONSIDERATIONS

Per Section 1101 – Subdivisions of Land in the JPB Zoning & Subdivision Ordinance lots shall only be created when they meet the minimum dimensional standards of the encompassing zoning district and any applicable overlay districts. All lots shall have access directly onto an abutting public street, and in this case, onto Lake Avenue NE. An exception of this access requirement may be allowed where the parcel without direct street access, and the adjacent parcel which affords access, both contain a minimum of two (2) acres and a minimum lot width of two hundred (200) feet. In such cases, a permanent minimum thirty-three (33) foot wide private access easement shall be recorded against the adjacent parcel in favor of the restricted access parcel; which shall not be included in the calculation of the minimum lot width requirement (must be over and above minimum). Properties seeking lot division approvals which cannot meet these standards may only be approved by variance.

Flag Lot: A lot predominately situated behind another lot and having an access to a public right of way through a portion of the lot which does not satisfy the minimum lot width standards in effect for the district in which the lot is located. The creation of a flag lot is prohibited except when approved through a PUD/CIC process and/or in accordance with other provisions of this Ordinance.

Existing Conditions

This is an existing standard lot of record that is currently vacant and undeveloped with several trees. This property is two hundred and fifteen (215) feet wide and is approximately 3.35 acres in size.

Parkland Dedication

As allowed by Minnesota Statutes, §462.358, Subd. 2b, the Joint Planning Board shall require all subdivides of property within the City limits of Bemidji to dedicate a reasonable portion of the land being platted or subdivided, or established as a new CIC which creates one or more new tax parcels. CIC applications for existing buildings which were constructed more than five (5) years prior to the application are exempt. Dedication and/or payment to the City shall be for public use, park, playground, trails, public sites, open space, conservation purposes, and storm water holding areas and ponds.

Per the JPB Zoning & Subdivision Ordinance, Section 1115. Dedication of Parks, Open Spaces, Trails and Public Sites

E. Minimum Areas of Dedication

- 1. Residential: A minimum of at least the rate of one acre per 25 dwelling units within the subdivision. $((\text{Number of total units}) / (25)) \times \$20,000 = \text{Parkland Dedication Fee}$***

Total Parkland Dedication Due = \$800 per single-family lot created.

Neighboring Property Input

At the time of writing report, no neighborhood concerns were obtained. New neighbor comment expected at this hearing.

Development Team: (Community Development, Public Works/Engineering, GIS, Building & Fire Department)

No comments or concerns from the Building Department nor the Fire Department.

Sam Anderson of Public Works/City Engineering had the following to say:

"These type of lot splits using access on a shared easement off of public right of way pose difficulties for future infrastructure projects. If water & sewer mains are brought down Lake Avenue in the future, it will make it difficult (expensive) for the back lots to access public utilities."

Steve Jones, Community Development Director also had the following to say:

"Private roads often cause problems for the city, and future property owners. In this case, I would not recommend a variance be approved. The owners could consider platting the properties and extending a public road and city utilities to the site once they become available."

Comprehensive Plan References

A reasonable use of property is in keeping with the spirit, purpose and intent of the Greater Bemidji Area Comprehensive Plan.

Objective 4.1: Preserve the Quality Residential Neighborhoods

Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.

- 4. Allow flexibility with site design standards to ensure high-quality development. Allowing for greater flexibility of zoning ordinances or density requirements for meeting site development criteria, such as increased live landscaping, stormwater retention areas, active recreation amenities, or park area, can provide a benefit to developers while ensuring a high-quality neighborhood is being designed or redeveloped.***

Objective 4.3: Promote Land Use Decisions that Protect the Natural Environment through Smart Growth and Sustainable Practices

When reviewing increases of land uses through subdivisions or large-scale commercial developments, resource conservation measures and sustainable land use practices will be reviewed.

- 1. Promote in-fill development with access to public infrastructure.*** Supporting projects that can use existing public infrastructure as well as increase density and intensification of land use when appropriate can help limit urban sprawl. However, supporting proposals at a density that strain existing public transportation or utilities is not sustainable and can negatively impact the public.

Objective 8.2 Promote and Encourage Diversity with New Housing Developments

Housing developments that include a diverse amount of housing options can help ensure all residents have housing, diverse housing can and should provide market rate and affordable opportunities.

- 1. Promote a variety of housing options based on market and need.*** It is important to support all forms of housing developments and to promote diversity and choice of housing for all residents. Market rate housing or workforce housing should be promoted based on market trends, affordable or supportive housing should be promoted based on the needs of the community.

RECOMMENDATIONS

JPB Staff had difficulties coming to a definitive conclusion on this request as its imperative to use best planning practices in the implementation of the ordinance and to ensure it is in keeping with the spirit, purpose and intent of the of the Comprehensive Plan. It's a goal of the City to promote and encourage in-fill development as well as new housing opportunities, and this would allow vacant land to be developed on for new single-family homes. Other city departments would not recommend approval for this request as well. At this time, no public infrastructure is planned for extension in this area; however, at the time of extending services these additional back lots being created will have a lengthy connection between their principal structures and the public infrastructure, which ultimately will be costly due to the long drive-way/private drive ((nearly four hundred (400) in feet in length)).

The Joint Planning Commission and the Joint Planning Board need to decide whether or not they support the variance request to subdivide the parcel of land to create an additional lot or if they are in opposition of the request and feel best planning practices are not being implemented. If the variance for an eighteen (18) foot reduction from the required lot width of two hundred and thirty-three (233) feet is approved, the following conditions are recommended based on the findings of fact:

Recommendations for Approval

Conditions:

1. A lot division application shall be submitted with the required thirty-three (33) foot wide private access easement.
2. The Parkland Dedication fee shall be submitted to the City of Bemidji for each new tax parcel that is created.
3. A building permit shall be obtained prior to any construction occurring on site.
4. Prior to any septic being installed on site, a septic permit shall be applied for and approved.

5. An erosion control plan shall be submitted and be in place before any construction commences on the property.
6. The variance shall expire and become void if the lot division and recorded easement are not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the recordings are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Findings:

1. **Has the applicant demonstrated a practical difficulty?**
Yes. This is an existing lot of record. The surrounding area to the north, west and south is all developed land with smaller parcels, similar to what the applicant is seeking. The applicant is seeking an opportunity to develop on his land and to provide additional housing.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
Yes. This is a previously platted lot of record; without a variance for a lot width reduction, this parcel could never be subdivided without access to the public street.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
Yes. This request is proposing to make use of the property in a reasonable manner while still meeting the minimum lot standards per Section 402 of the JPB Zoning & Subdivision Ordinance.
4. **Can the variance be granted without altering the essential character of the surrounding area?**
Yes. Since the proposed variance request is to subdivide the parcel for the creation of an additional single family lot, it would fit well within the surrounding area and would not alter the character or the density.

Recommendations for Denial

Findings:

1. **Has the applicant demonstrated a practical difficulty?**
No. Although this is an existing lot of record, the lot currently meets all standards within the Zoning Ordinance. The creation of a flag lot is prohibited except when approved through a PUD/CIC process and/or in accordance with other provisions of this Ordinance.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
No. This is a previously platted lot of record; however, the owner is planning to develop on the vacant lot with the hopes of taking a conforming lot and subdividing to add additional housing, which would make an exceptional circumstance created by the current landowner.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
No. This request is proposing to subdivide a property and create an easement to access a back lot that doesn't meet the minimum lot width per Section 1101 of the JPB Zoning & Subdivision Ordinance. This Section of the Ordinance requires a lot to have a minimum of 200 feet in width plus an additional 33feet for a private access easement. This parcel is 215 feet in width, which doesn't meet the 233 foot minimum.
4. **Can the variance be granted without altering the essential character of the surrounding area?**

No. The proposed variance request is to subdivide a piece of land for the creation of an additional back lot, which would alter the essential character of the surrounding area as no other back lots are existing in the vicinity. This could potentially pose as a problem in the future if and when public utilities are extended.

Public Hearing opened at 6:46 p.m.

Richard Tobey stated that all of this land is on high ground, and this permit process was discussed knowing that an easement would be needed in order to develop the two (2) back lots. All setbacks can be met, so no further variances will be required. Commissioner Lemmer questioned if the driveway will be shared. Discussion speculating process of easements and requirements. Matt Murray stated that Beltrami County only allows one (1) driveway approach per parcel. Noemi Aylesworth is a neighbor to the south who does not support the variance because it will disrupt the nature in her private six (6) acre lot. She also spoke on behalf of neighbors not able to attend, specifically Mr. Krehl Stringer and renter Jody Carlson-Anderson, who are both against this variance. Murray explained that this will become a common scenario to request a variance, since few remaining lots are of standard size. Discussion involved several speakers about road ownership and maintenance, and a suggestion to consider a CIC option. Murray commented that utilities are not a big hurdle for this development.

Public Hearing closed at 7:02 p.m.

Commissioner Smith stated concern about making a conforming lot non-conforming. Commissioner Heinonen agreed. Commissioner Steffen suggested extending the 60-Day rule to allow for more time to resolve questions.

Applicant Richard Tobey requested a 60-Day Extension.

Consensus by Joint Planning Commissioners to approve the request.

Carlson presented the third case:

PLANNING CASE – V-19-31.01886.00 – Steven and Cheryl Kroeger

Steven & Cheryl Kroeger are requesting a variance to build a storage building on a substandard lot of record in the (B-1) Low Density Commercial Zoning District and Shoreland Overlay within Northern Township at 134 Lakewood Dr NW. Per Section 402 of the Ordinance, the minimum lot size for a nonriparian B-1 lot is two (2) acres and currently this lot is 28,590 square feet in area. This parcel is part of the 2020 annexation into the City of Bemidji.

BACKGROUND

The applicants are requesting approval to construct a 2,400 square foot storage building for personal use. The applicants met with JPB staff to discuss options for building on the lot. The lot is currently undeveloped and has a paved access coming off of Lakewood Dr. NW. This parcel was part of a rezone with six (6) other parcels in 2018 to B-1 Low Density Commercial. The new proposal meets all setbacks and impervious surface requirements. Note: as this is a storage building, there are no plans for a well or septic at this time.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the Ordinance, per

Sections 502 & 903, and nothing can be constructed without the approval of a variance.

Existing Conditions

This is an existing non-riparian, substandard lot of record within the shoreland overlay. This is currently a vacant undeveloped lot.

Setbacks

The proposed new accessory/storage structure will comply with all setbacks per Sections 402 & 901 of the JPB Ordinance.

Neighborhood Comment

No input was given to the JPB at the time of writing this report. An email was later received from a neighbor who is not opposed, but has concerns with a dusk-to-dawn security light shining into their windows. Staff affirmed that the ordinance standards must be complied with.

Comprehensive Plan References:

Vacant

Vacant land use consists of developed lots that do not have a principal building or are developable areas that are not currently developed. Roughly 14.7% of the land in the Greater Bemidji Area is undeveloped or classified as vacant.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

RECOMMENDATIONS

Staff recommends approval of the variance to construct a new storage building at 134 Lakewood Dr. NE within the shoreland overlay in northern Township. Approval recommended with the following conditions:

1. An erosion control plan shall be submitted and be in place before any construction commences on the property.
2. JPB site verification form and fee shall be submitted prior to construction.
3. A land use permit shall only be issued and obtained after approved certification from the Mississippi Headwaters Board (MHB).
4. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Public Hearing opened at 7:19 p.m.

Steve Kroeger stated that the neighbor's request regarding the security light is not a problem. Marilyn Vietor questioned the location of the parcel. Representative Matt Murray identified it on the overhead map. Vietor commented that there is not much commercial on Lakewood Drive; however, staff explained that several parcels were re-zoned as commercial last year.

Public Hearing closed at 7:23 p.m.

Motion by Heinonen, second by Steffen to recommend approval of the variance to construct a new storage building at 134 Lakewood Dr. NE within the shoreland overlay in northern Township, with the following conditions:

1. An erosion control plan shall be submitted and be in place before any construction commences on the property.
2. JPB site verification form and fee shall be submitted prior to construction.
3. A land use permit shall only be issued and obtained after approved certification from the Mississippi Headwaters Board (MHB).
4. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. **Has the applicant demonstrated a practical difficulty?**
Yes. This is an existing lot of record that is currently undeveloped. Without a variance, the lot could not be developed.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
Yes. This is a previously platted and developed lot of record. No building of structures can be permitted without approval of a variance.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
Yes. This request is proposing to make use of the property in a reasonable manner while making improvements.
5. **Can the variance be granted without altering the essential character of the surrounding area?**
Yes. Since the proposed variance request is for a storage building, it would fit well within the surrounding area and would not alter the character.

Motion carried unanimously.

Jones presented the fourth case:

PLANNING CASE – V-19-31.01216.00 – Matthew and Dina Lee

Matthew and Dina Lee are requesting a variance from Section 1101 of the Ordinance in order to subdivide their parcel of land. This would allow for two additional lots to be created in the (R-3) Suburban Residential Unsewered Zoning District within the Shoreland Overlay in Northern Township, parcel 31.01216.00. A variance is needed for either 1.) The creation of a flag lot for the proposed Parcel B, or 2.) For Parcel B not meeting the minimum lot size of two (2) acres or lot width requirement off two hundred and thirty-three (233) feet in order to have a thirty-three (33) foot wide public access easement.

BACKGROUND

The applicant is requesting to subdivide his lot of record in to three (3) total parcels. The existing lot is approximately 4.52 acres in size and is located on the east shore of Lake Bemidji within Northern Township. All proposed parcels are projected to be riparian lots that will meet the minimum lot width of one hundred (100) feet and lot size of thirty-thousand (30,000) square feet

standards per Section 901 with the Shoreland Ordinance. A variance is needed for the proposed Parcel B as it will either 1.) Create a flag lot, or 2.) Create a private access easement on a property unable to meet the minimum lot size or lot width per Section 1101 of the Zoning Ordinance.

PLANNING CONSIDERATIONS

Per Section 1101 – Subdivisions of Land in the JPB Zoning & Subdivision Ordinance lots shall only be created when they meet the minimum dimensional standards of the encompassing zoning district and any applicable overlay districts. All lots shall have access directly onto an abutting public street, and in this case, onto Lake Avenue NE. An exception of this access requirement may be allowed where the parcel without direct street access, and the adjacent parcel which affords access, both contain a minimum of two (2) acres and a minimum lot width of two hundred (200) feet. In such cases, a permanent minimum thirty-three (33) foot wide private access easement shall be recorded against the adjacent parcel in favor of the restricted access parcel; which shall not be included in the calculation of the minimum lot width requirement (must be over and above minimum). Properties seeking lot division approvals which cannot meet these standards may only be approved by variance.

Flag Lot: A lot predominately situated behind another lot and having an access to a public right of way through a portion of the lot which does not satisfy the minimum lot width standards in effect for the district in which the lot is located. The creation of a flag lot is prohibited except when approved through a PUD/CIC process and/or in accordance with other provisions of this Ordinance.

Existing Conditions

This is an existing riparian standard lot of record with a principal structure, an accessory dwelling unit and an accessory structure all located throughout the property.

In 2016, the existing lot of record was approved a land use permit (permit #: LU-16-53) to construct forty (40) foot by forty (40) foot or one thousand six hundred (1,600) square foot accessory structure on the property. Per Section 601 of the JPB Zoning & Subdivision Ordinance, in order to build an accessory structure in the (R-3) Suburban Residential Zoning District to that size, a minimum lot size of two (2) acres is required. The existing lot of record is proposed to be reconfigured at 2.01 acres in size, meeting the Section 601 requirement.

The existing septic system was installed in 2015 and deemed in compliance at this time. No compliance inspection is required at this time as new septic systems are not required to be inspected for five (5) years from the date of installation. The existing septic system would comply with all setback requirements following the lot division, if approved. This system will only serve the existing property or the Proposed Parcel A, as indicated on the site plan.

Neighboring Property Input

At the time of writing report, no neighborhood concerns were obtained.

Mississippi Headwaters Board (MHB)

Tim Terrill, MHB Executive Director had the following to say about the proposed project and the provided site plan:

MHB standards for a minimum lot size are 30,000 square feet, so if the lot was subdivided, the new lot created would need to meet this standard. If any structure were to be placed on the new lot, than it would have to meet the structure setback of 100 feet and ISTS (septic) setback of 75 feet or be connected to municipal sewer. Lot width at OHWM and at building line would need to be 100 feet.

Comprehensive Plan References

A reasonable use of property is in keeping with the spirit, purpose and intent of the Greater Bemidji Area Comprehensive Plan.

Objective 4.1: Preserve the Quality Residential Neighborhoods

Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.

5. Allow flexibility with site design standards to ensure high-quality development.

Allowing for greater flexibility of zoning ordinances or density requirements for meeting site development criteria, such as increased live landscaping, stormwater retention areas, active recreation amenities, or park area, can provide a benefit to developers while ensuring a high-quality neighborhood is being designed or redeveloped.

Objective 4.3: Promote Land Use Decisions that Protect the Natural Environment through Smart Growth and Sustainable Practices

When reviewing increases of land uses through subdivisions or large-scale commercial developments, resource conservation measures and sustainable land use practices will be reviewed.

- 2. Promote in-fill development with access to public infrastructure.** *Supporting projects that can use existing public infrastructure as well as increase density and intensification of land use when appropriate can help limit urban sprawl. However, supporting proposals at a density that strain existing public transportation or utilities is not sustainable and can negatively impact the public.*

Objective 8.2 Promote and Encourage Diversity with New Housing Developments

Housing developments that include a diverse amount of housing options can help ensure all residents have housing, diverse housing can and should provide market rate and affordable opportunities.

- 3. Promote a variety of housing options based on market and need.** *It is important to support all forms of housing developments and to promote diversity and choice of housing for all residents. Market rate housing or workforce housing should be promoted based on market trends, affordable or supportive housing should be promoted based on the needs of the community.*

Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

RECOMMENDATIONS

JPB Staff had difficulties coming to a definitive conclusion on this request as its imperative to use best planning practices in the implementation of the ordinance and to ensure it is in keeping with the spirit, purpose and intent of the of the Comprehensive Plan. It's a goal of the Greater Bemidji Area Comprehensive Plan to promote and encourage in-fill development as well as new housing opportunities, and this would allow an owner to subdivide a portion of their vacant land to be developed on for new single-family homes.

The Joint Planning Commission and the Joint Planning Board need to decide whether or not they support the variance request to subdivide the parcel of land to create two (2) additional lots with one (1) lot being a flag lot or if in opposition of the request and feel best planning practices are not being implemented. If the variance for the creation of a flag lot or the reduction in lot width and lot size is approved, the following conditions are recommended based on the findings of fact:

Recommendations for Approval

Conditions

1. A lot division application shall be submitted for the division of land. A lot division shall not be approved or obtained until the Mississippi Headwaters Board certifies or approves the variance.
2. A land use permit shall be obtained prior to any construction occurring on any of the sites.
3. Prior to any septic being installed on the sites, a septic permit shall be applied for and approved.
4. An erosion control plan shall be submitted and be in place before any construction commences on the properties.
5. The variance shall expire and become void if the lot division and possible recorded easement are not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the recordings are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Findings

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing lot of record. The surrounding area to the north, east and south is all developed land with smaller parcels, similar to what the applicant is seeking. The applicant is seeking an opportunity to divide a portion of his land so it can be developed on for additional housing.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted lot of record; without a variance for the creation of a flag lot or a lot width reduction, this parcel could never be subdivided, creating more than one (1) additional lot.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while still meeting the minimum lot standards per Section 901. Shoreland Regulations of the JPB Zoning & Subdivision Ordinance.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. Since the proposed variance request is to subdivide the parcel for the creation of two (2) additional single family lots, it would fit well within the surrounding area and would not alter the character.

Recommendations for Denial

Findings

1. Has the applicant demonstrated a practical difficulty?

No. Although this is an existing lot of record, the lot currently meets all standards within the Zoning Ordinance. The creation of a flag lot is prohibited except when approved through a PUD/CIC process and/or in accordance with other provisions of this Ordinance.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

No. This is a previously platted lot of record; however, the owner is planning to subdivide the parcel to allow for development on the vacant portion of the lot.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

No. This request is proposing to subdivide a property with the creation of a flag lot or the creation of an easement to access a back lot that doesn't meet the minimum lot width or lot size per Section 1101 of the JPB Zoning & Subdivision Ordinance. This Section of the Ordinance requires a lot to have a minimum of 200 feet in width plus an additional 33feet for a private access easement. Parcel B that is proposed will be 168 feet in width and 1.24 acres in size, which doesn't meet the 233 foot width or the 2 acre minimum.

4. Can the variance be granted without altering the essential character of the surrounding area?

No. The proposed variance request is to subdivide a piece of land for the creation of two additional lots, with one being considered predominately situated behind another lot, which would alter the essential character of the surrounding area as no other flag lots are existing in the vicinity. This could potentially pose as a problem in the future if and when public utilities are ever extended.

Public Hearing opened at 7:36 p.m.

Matthew Lee described Pier Street NE as an access point, and his goal is to be responsible about the outcome. He intends to develop according to the Comprehensive Plan, and wants the access point to have the least amount of impact. Commissioner Lahn asked if the proposed driveway serves Parcel B, which Lee affirmed, then stated that the existing driveway will serve Parcel C. Commissioner Lemmer stated her concerns with creating sub-standard lots. Matt Murray commented that this will not truly become sub-standard as it exceeds the minimum lot width standards, and states it is not a flag lot, by elements of the definition. Staff stated that applicant would be making the situation worse if he were to follow the legal standards. Murray stressed to the commission that the request is a reasonable use, and stated that the benefits would be better with a private driveway instead of a public road. Commissioner Lemmer asked if there were any land or water issues. Murray stated the land is located on high ground and no further variances are anticipated. Staff stated that front yard of this parcel is defined as being toward the lakeside. Commissioner Heinonen questioned if Parcel B and Parcel C will have private driveways. Staff explained that only Parcel C will have a private driveway, but all three (3) are separate. Commissioner Faver asked about the 90 degree turn on Waville Road, and Murray stated that legal access to Waville is granted, and the applicant owns the land out to the public ROW. Faver questioned the flag lot, and was told by Murray that Parcel B would be considered a flag lot and would have access without a cul de sac. Lemmer commented that there is not an easement, so the access will be part of the property. Staff stated that the easement will be eliminated, and a good case was made of an odd situation.

Public Hearing closed at 7:52 p.m.

Motion by Faver, second by Heinonen to approve the variance request to subdivide the parcel of land to create two (2) additional lots with the following conditions:

1. A lot division application shall be submitted for the division of land. A lot division shall not be approved or obtained until the Mississippi Headwaters Board certifies or approves the variance.
2. A land use permit shall be obtained prior to any construction occurring on any of the sites.
3. Prior to any septic being installed on the sites, a septic permit shall be applied for and approved.
4. An erosion control plan shall be submitted and be in place before any construction commences on the properties.
5. The variance shall expire and become void if the lot division and possible recorded easement are not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the recordings are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. **Has the applicant demonstrated a practical difficulty?**
Yes. This is an existing lot of record. The surrounding area to the north, east and south is all developed land with smaller parcels, similar to what the applicant is seeking. The applicant is seeking an opportunity to divide a portion of his land so it can be developed on for additional housing.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**
Yes. This is a previously platted lot of record; without a variance for the creation of a flag lot or a lot width reduction, this parcel could never be subdivided, creating more than one (1) additional lot.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**
Yes. This request is proposing to make use of the property in a reasonable manner while still meeting the minimum lot standards per Section 901. Shoreland Regulations of the JPB Zoning & Subdivision Ordinance.
4. **Can the variance be granted without altering the essential character of the surrounding area?**
Yes. Since the proposed variance request is to subdivide the parcel for the creation of two (2) additional single family lots, it would fit well within the surrounding area and would not alter the character.

Roll call vote:

Ayes: Berg, Faver, Steffen, David, Heinonen, Lahn, Lemmer, Smith

Nays: None

Absent: Miller

Abstain: None

Motion carried unanimously.

Carlson presented the fifth case:

PLANNING CASE – V-19-31.01266.00 – Richard and Laura Block

Richard and Laura Block are requesting multiple variances in order to rebuild a new single-family structure and to install a new compliant septic system on their substandard lot of record located at 6315 Lavinia Rd NE in Northern Township. This property is within the (R-3) Suburban Residential Unsewered Zoning District and Shoreland Overlay. The requested variances are as follows:

1. A reduction of 15,007 square feet in lot size per Section 901 requirement of 30,000 square feet;
2. An ordinary high water setback reduction of twenty-five (25) feet from the required one-hundred (100) feet per Section 901;
3. An additional five and six-tenths (5.6) percent or eight hundred and forty-two (842) square feet of impervious surface coverage throughout the property per Section 901;
4. A forty-six (46) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
5. A reduction in septic setbacks from the principal structure, the side yard lot line and the public right-of-way per Section 801:
 - a. A four (4) foot reduction from the required ten (10) feet for the septic tank from the principal structure;
 - b. A ten (10) foot reduction from the required twenty (20) feet for the mound system from the principal structure;
 - c. A six (6) foot reduction from the required ten (10) feet for the mound system from the east lot line/public right-of-way; and
 - d. A nine (9) foot reduction from the required ten (10) feet for the mound system from the south side yard lot line.

BACKGROUND

The applicant's representative met with staff for a proposal to redevelop his client's lake lot on Lake Bemidji. The legal non-conforming lot is currently developed with a nonconforming structure that has a failing septic system. The existing cabin sits approximately ninety-one (91) feet from the ordinary high water level (OHWL). As shown on the site plan, the septic system will be moved to the southeast corner of the lot and the proposed house will be moved closer to the OHWL to make room for the septic. It is also worth noting that the overall impervious will be reduced by four and two-tenths percent (4.2%) or six-hundred and thirty (630) square feet. The applicants plan to build a new home on the property as well as install a new septic system.

PLANNING CONSIDERATIONS

This lot does not meet any of the allowances for substandard lot construction in the ordinance Section 502 or Section 903, and nothing can be constructed or expanded without a variance.

Existing Conditions

This is an existing substandard lot of record consisting of a house, patios, and walkways along with a brick driveway. The current single-family house is 2,447 square feet.

Proposed Improvements

The proposal would correct some side yard encroachment issues and the failing septic. The new proposed home will be pushed back from the south side yard lot line and the new proposed septic system will be setback approximately one hundred and twenty-five (125) feet from the OHWL. This proposal would be a benefit to Lake Bemidji and surrounding properties.

An alternative option would be to rebuild a new structure in the same footprint of the existing house;

however, then the septic system would be installed in closer proximity to Lake Bemidji and would most likely require a variance as the septic would be placed within the seventy-five (75) foot setback from the OHWL.

Septic System

The existing system will need to be removed and a SSTS abandonment reporting form will need to be completed. A SSTS permit will need to be obtained prior to installation and shall comply with Section 801 of the JPB Zoning & Subdivision Ordinance.

Stormwater Mitigation

Staff would recommend that the applicant install a gutter system on the new structure to direct stormwater towards a mitigation system such as raingardens or even a pervious pavement system in lieu of concrete or bituminous surface. This will prevent runoff from entering Lake Bemidji. A stormwater mitigation plan shall be submitted to JPB staff for review and approval prior to land use permit being issued.

Landscaping Requirements

A landscaping plan would need to be submitted if any trees, shrubs, or vegetation are to be removed within the shoreland protection zone. Erosion control would have to be in place before any construction or demolition begins and remain intact until suitable vegetation is established and in place.

Neighborhood Comment

A phone call was received from a neighbor across the road that had concerns about septic system distance from their well. Also, the same individual wanted to know if any of the materials from the house will be reused or given to Habitat for Humanity and if proper steps would be taken for any toxic air born materials getting out into the air or lake during demolition. He stated that he would like to see a fence around the mound system. The same neighbor had sent a letter in objection to the variance proposal as well.

A phone call was received from the neighbor to the south about the proposed septic system distance from their well.

Comprehensive Plan References:

The newly adopted Greater Bemidji Area Comprehensive Plan has identified a few objectives and strategies that supports the variance request and is in keeping with the spirit, purpose and intent of the Plan.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

Identify specific redevelopment opportunities and promote revitalization while maintaining character. Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.

Natural Resources Objective 11.2 Preserve and Enhance Water Quality

The protection of water quality is becoming increasingly important in all-natural resource environments. In an area that thrives on a strong connection to water and Mississippi River, water quality protection is key to preserving and improving a high quality of life standard that is so attractive to residents and visitors.

Strategy #2: Use shoreland restoration incentives and demonstrate success on public and private property to increase natural shoreland. Encourage shoreland restoration projects through incentives or flexibility could potentially reduce shoreland variances.

Displaying the benefits of shoreland restoration can increase awareness and understanding of the process that could result in a positive impact on shoreland.

RECOMMENDATIONS

Staff recommends approval of five (5) variances in order to construct a new single family structure along with a new compliant septic system at 6315 Lavinia Rd NE. The variances are as follows:

1. A reduction of 15,007 square feet in lot size per Section 901 requirement of 30,000 square feet;
2. An ordinary high water setback reduction of twenty-five (25) feet from the required one-hundred (100) feet per Section 901;
3. An additional five and six-tenths (5.6) percent or eight hundred and forty-two (842) square feet of impervious surface coverage throughout the property per Section 901;
4. A forty-six (46) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
5. A reduction in septic setbacks from the principal structure, the side yard lot line and the public right-of-way per Section 801:
 - a. A four (4) foot reduction from the required ten (10) feet for the septic tank from the principal structure;
 - b. A ten (10) foot reduction from the required twenty (20) feet for the mound system from the principal structure;
 - c. A six (6) foot reduction from the required ten (10) feet for the mound system from the east lot line/public right-of-way; and
 - d. A nine (9) foot reduction from the required ten (10) feet for the mound system from the south side yard lot line.

Approval recommended with the following conditions:

1. Buildings shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. A septic permit shall be obtained prior to installing new system. The existing septic system shall be removed and a SSTS abandonment reporting form shall be completed.
7. Applicant shall obtain approval from Northern Township for driveway widening off of Lavinia Rd. NE.
8. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Public Hearing opened at 8:08 p.m.

Laura Block asks for the variances and will attempt to reduce the amount of impervious surface. Matt Murray stated that several improvements will be made with this proposal including a compliant septic system. He asked the MHB if they preferred a structure or septic

closer to the lake, and they agreed the structure would be better. Murray also stated that this design by Dave Larson results in the least use of land of any possible configuration. Les Klevay is a neighbor to the south and asked that the five (5) structures on the north part of applicant's parcel be removed, and stated that the letter received does not agree with the plan presented, and looks too close to his land. Murray clarified the request for a nine (9) foot reduction for the mound system by describing the site plan in detail. Commissioner Lemmer questioned parking which Murray stated room for four (4) vehicles, but staff clarified ordinance standards which would result in only three (3) parking spaces. Commissioner Smith asked if paver stones currently stored on neighbor's lot will be removed. Murray stated that they will be.

Public Hearing closed at 8:14 p.m.

Public Hearing re-opened at 8:14 p.m.

Les Klevay and Matt Murray discussed specifics of the variance requests. Murray clarified that the road ROW is a four (4) foot setback from Lavinia Road. Staff clarified the toe of the mound to be one (1) foot from the setback, and Klevay stated that he objects to that. Martha Klevay asked if the paver stones will be removed. Les Klevay commented that the items placed over his property line devalues his property and asked if the five (5) structures – specifically two (2) pieces of fence, a drain pipe, paver stones, and an irrigation pipe down by the water – will be removed. Murray assured the Klevay's that all items belonging to the applicants will be removed from the Klevay's parcel.

Public Hearing re-closed at 8:18 p.m.

Smith commented that the placements on the site plan are where things need to go. Heinonen stated that he struggles with the septic being too close. Lemmer commented that the site plan looks like the best options of what could be done.

Motion by Steffen, second by Faver to approve five (5) variances in order to construct a new single family structure along with a new compliant septic system, with the following conditions:

1. Buildings shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
6. A septic permit shall be obtained prior to installing new system. The existing septic system shall be removed and a SSTS abandonment reporting form shall be completed.
7. Applicant shall obtain approval from Northern Township for driveway widening off of Lavinia Rd. NE.
8. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

And Findings of Fact:

1. Has the applicant demonstrated a practical difficulty?

Yes. This is an existing lot of record that is currently developed; the surrounding area is heavily developed on small standard lots. Without a variance, the lot could not be improved or further developed.

2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

Yes. This is a previously platted and developed lot of record. No improvements could be made to the residence or redevelopment on this property can be permitted without approval of a variance, this includes the existing structure and the septic system.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. This request is proposing to make use of the property in a reasonable manner while making improvements on existing nonconformities and improving environmental quality. This proposal will reduce impervious surface and replace the failing septic system along with setting it back away from the OHWL of Lake Bemidji.

4. Can the variance be granted without altering the essential character of the surrounding area?

Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years.

Roll call vote:

Ayes: Smith, Lemmer, Lahn, David, Steffen, Faver, Berg

Nays: Heinonen

Absent: Miller

Abstain: None

Motion carried.

OTHER BUSINESS:

DIRECTOR REPORT

Staff directed commission to view the director's report in the packet.

UPCOMING MEETING DATES:

Sept. 11, 2019	6:00 pm	JPB Regular Meeting
Sept. 19, 2019	6:00 pm	JPC Regular Meeting
Oct. 9, 2019	6:00 pm	JPB Regular Meeting
Oct. 24, 2019	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

There being no further business, motion by Heinonen, second by Steffen, to adjourn the Regular Planning Commission meeting at 8:20 p.m.

Motion carried unanimously.

Respectfully submitted,

Terri Ball
Planning Administrative Assistant

Approved and attested by:  
Joint Planning Commission Representative

