

Minutes of the Todd County Board of Adjustment Meeting

March 23rd, 2023

Completed by: Sue Bertrand, P&Z Staff

Kevin McKelvey and Rick Johnson on 11/8/2022 on the Sedey Site.

Adam Ossefoort and Bill Berscheit on 1/19/2023 Sedey Sites.

Adam Ossefoort and Russ Vandenhuevel on 2/15/2023 on the Toomey Site.

Adam Ossefoort and Danny Peyton on 3/14/2023 on the Stanger Site.

Meeting attended by board members, Vice Chair Bill Berscheit, Mike Soukup, Danny Payton
Russ Vandenhuevel, and Planning Commission Liaison Ken Hovet.

Staff members: Adam Ossefoort and Sue Bertrand

Other members of the public: Sign-in Sheet is available for viewing upon request.

Bill called the meeting to order at 6:00 p.m. Each board member introduced themselves and Bill explained the process for those attending.

Introduction of the meeting process and etiquette.

Ken motioned to have the January 26th, 2023 meeting minutes approved. Danny seconded the motion. Voice vote, no dissent heard. Motion carried.

AGENDA ITEM 1: Mark & Lorri Toomey – PID 10-0042100 – Gordon Township

Request(s):

1. Variance request to reduce the Ordinary High-Water Line setback from 75' to 52' for proposed dwelling in General Development Shoreland Zoning.
2. Variance request increase the allowable peak height from 18' to the proposed dwelling height of 24'6⁹/₁₆" in General Development Shoreland Zoning.

Mark and Lorri were present as the applicants.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Establishment of a 15' vegetated buffer along the lake frontage consisting of deep-rooted native vegetation. A 10' wide access path will be allowed to be maintained for dock access.
2. Installation of a storm water retention structure to collect stormwater from 900 square feet of roofed surface based on a 10 year/24-hour rainfall event.
3. Establish and maintain a minimum of 50% screening of the property structure as viewed from the lake during leaf on conditions.

Mark confirmed the staff report was accurate except the cabin was Built in the 1950's, and is falling down in the bedrooms. The roof is caving in and part of the living room is caved in.

Lorri added it may have been the addition in the 1970's that gave the impression the house was built then, however, after speaking with the previous owner's, they stated it was built in the 1950's.

Public comment:

Jamie Edenloff, neighbor @ 19868 Eastwood Dr., Osakis, stated he was all for it and confirmed the bedrooms were falling in.

Correspondence received: Yes.

From Gerald and Patricia Nelson of Nelson, MN submitted a letter that may be viewed in full, upon request, in the Planning and Zoning office.

Russ recapped his site visit notes. These details may be viewed in full, upon request, in the Planning and Zoning office.

Board discussion:

Dan stated the side property line dimensions are 166' and 153' and was wondering why they cannot just build within the setbacks.

Lorri stated a 200-year old Maple tree would have to come down, the prettiest, nicest, tree on Eastwood Dr. and pointed out the new build would actually be set back further from the lake than the existing. She also stated they will be having a compliance inspection and wanted to make sure there is adequate room for a larger septic system, being they plan to go from a seasonal place to a year-round place.

Russ asked Adam to go back to the photos showing the tree Lorri was talking about, which he did, and Mark walked up to the overhead and pointed out approximately where the 75' setback mark would be.

Lorri said there is a substantial drop off from the road, and the existing cabin sits lower than the neighboring lots. She added they would like to add a loft to obtain more space without increasing the footprint as much, and not looking to build a large structure at all. She stated they are not asking for anything extraordinary by asking for the height variance, as they sit lower than the neighbors already, and would still fit in with the loft.

Bill asked Adam to move to a photo using the GIS and invited Ken to ask his question.

Ken asked about the road setback distance and Adam clarified it was 35' from the edge of the road right of way or the property line, pointed out the 75' lake set-back, pointed 24' on the South line and 62' on the North line available.

Ken pointed out mathematically, 43 feet is the available room to build on the short side of the lot and more on the long side. He stated that is adequate room to build, meeting all of the setbacks.

Lorri stated she was concerned about the way the property dips in from the road and the substantial drop-off.

Ken asked Lorri if, after the 35' distance from the road right of way, towards the lake, it levels off and Lorri stated yes, it levels out about at the tree.

Mike asked what the septic system plans were.

Mark stated they are not sure, as they have a holding tank now, but if they become year-round residents, may need a full system. Stated the neighboring properties all have the mound systems and Mark felt they would not have room on the lot, especially if they had to move back, for a mound.

Bill called for Criteria Questions individually, by request.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	Vote and Comments
Danny Peyton	No. The Maple tree is very old, and stated he does love trees, but trees are like people and they do die off. He would hate to rule this thing one way and two years from now, the tree has to be taken down, and just destroyed the whole reason for this variance.
Ken Hovet	No. For the same reason as Bill.
Bill Berscheit	No. There appears to be room on the lot.
Russ Vandenhuevel	No. If they go back further there is buildable space.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- No

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	Vote and Comments
Danny Peyton	No.
Ken Hovet	No.
Bill Berscheit	No, the goal of the Comprehensive Plan and state DNR setbacks, over time, is to move these structures back away from the lake. That is the purpose and intent of those rules.
Russ Vandenhuevel	Yes. Will be promoting development fairly.
Larry Bebus	No. Agrees with Bill.
Mike Soukup	No, there is other space available.

Majority response-No

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	Vote and Comments
Danny Peyton	No. Concerned with water run-off and the buffer zone to the lake.
Ken Hovet	No.
Bill Berscheit	No.
Russ Vandenhuevel	No.
Larry Bebus	Yes.
Mike Soukup	No.

Majority response- No

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	Vote and Comments
Danny Peyton	No. The slope does drop off from the road to the existing structure but does not consider that a concern or a unique circumstance.
Ken Hovet	No.
Bill Berscheit	No.
Russ Vandenhuevel	No.
Larry Bebus	No.
Mike Soukup	No.

Majority response- No

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	Vote and Comments
Danny Peyton	Yes.
Ken Hovet	No.
Bill Berscheit	Yes. Bill clarified they are addressing both variance requests with these criteria questions.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	Vote and Comments
Danny Peyton	No.
Ken Hovet	Yes.
Bill Berscheit	No.
Russ Vandenhuevel	Yes.
Larry Bebus	No.
Mike Soukup	No.

Majority response- No

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	Vote and Comments
Danny Peyton	No.
Ken Hovet	No.
Bill Berscheit	No. With moving closer to the lake, we would definitely need something here that would help alleviate the added impact.
Russ Vandenhuevel	No.
Larry Bebus	No.
Mike Soukup	No.

Majority response-No

Summary of criteria question majority responses as follows:

#1	No.
#2	No.
#3	No.
#4	No.
#5	Yes
#6	No.

#7	No.
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Danny motioned to deny, Mike seconded, voice vote, no dissent heard, motion carried.

AGENDA ITEM 2: Robin & Scott Sedey – PID 11-007300 – Grey Eagle Township

Request(s):

1. Variance request to reduce the road right-of-way setback from 20' to 11' for an after-the-fact storage shed in Recreational Development Shoreland.

Request to be tabled for site review once snow is gone.

AGENDA ITEM 3: Jay & Gail Stanger – PID 11-0074600 – Grey Eagle Township

Request(s):

1. Variance request to reduce the Ordinary High-Water Line setback from 100' to 85' for proposed dwelling replacement in Recreational Development Shoreland Zoning.
2. Variance request to increase the allowable peak height from 18' to the proposed dwelling replacement height of 26' in Recreational Development Shoreland Zoning.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Establishment of a 10' vegetated buffer along the lake frontage. A 6' wide maintained path for dock access shall be allowed.
2. Property owner must maintain a minimum of 50% screening of the proposed structure as viewed from the lake during leaf on conditions.
3. Construction of a water retention structure to retain 50% of the roof water based on a 10 year/24-hour rainfall.
4. Applicant must abide by all other applicable federal, state, and local standards.

Bill asked the applicants if Adam's staff report accurately represented their application.

Jay and Gail were present as the applicants and Jay asked what the 50% minimum screening meant, to which Bill explained the lake is public property and when sitting on the lake, we want to see more than a wall of houses. We want to see trees and things like that. That is what we call screening. So, 50% screening with leaf-on conditions means that when the tree is in full leaf, there's 50% of your structure that gets blocked. That doesn't mean it has to be that way when we do the project, just that there has to be plants in place, that will achieve that.

Jay and Gail confirmed the staff report was accurate, and understood Bill's explanation. Adding they have a lot of trees.

Danny Peyton read his findings from his site visit. These details may be viewed in full, upon request, in the Planning Zoning office.

Correspondence received: None.

Public comment: None and no zoom call.

Board discussion:

Danny stated the house with the existing garage is not that old. The garage is on a floating slab, and the house is going to be a permanent structure so they cannot attach the house to the garage.

Jay stated his builder said he would like to have at least 6' for the breezeway.

Dan stated the roof structure of house will match the roof structure of the garage except for the six-foot chunk missing, it will look like a continuous roof. With the house built, you will not be able to see the garage from the lake, only the house. There is a slight increase in the slope from the lake to the garage.

Jay stated an option if the variance to the roof was not granted there would be visible roof difference from the view of the lake.

Mike clarified with the Stanger's that the house will actually be sitting lower than the garage by a few feet. They would be matching the height of the house to the existing height of the garage and because of the difference in elevation, they are asking for the variance.

Jay stated his design shows making the garage even with the upper floor of the house and have a lower level toward the lake. Gail pointed out not too deep. Jay stated if they build in the existing footprint, it would get too low for a basement. They would like to back it up and center it a little more and one big Ash tree will have to come out. The trees are tall. Stated he was on the Mound Lake Association and started to plant a Hosta buffer for the lake.

Ken asked Adam to scroll back to the survey and needed clarification from Jay on where the garage is now and where exactly was he proposing to build.

Jay pointed they removed the little garage and built the existing garage. Now there is only one corner of the proposed house that will be 15 feet into the setback. The other corner is close to not in the lake setback. He stated they built the garage to clean up the yard and store lawn mowers, lake toys and pontoon and make it look nicer.

Ken asked if the old cabin would go away and Jay confirmed, yes. Jay added they have a sand point well and plan to drill a new well and tear out the old cabin. Jay also said they have a new septic plan, reviewed by Adam. The drain field for the septic will be 5' from the neighbor's lot line and they have signatures to okay. Jay stated they dealt with Adam a lot and thought this was less invasive and good for the lake, to be able to update the cabin and be there more year-round. Gail stated they will not be moving there permanently, but want to be able to spend more time there.

Larry asked if there was a slope towards the lake, to which Jay explained the run-off patterns. It will drain off to the side from the road and stated they could collect the water run-off and contain or pump it and drain it where they could.

Bill suggested a “rain garden” as one of the conditions and asked for more clarification on drainage details.

There was discussion on drainage patterns moving more to the side of the property line and then toward the lake.

Bill called for Criteria Questions to address both variance requests. The board agreed.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	Vote and Comments
Danny Peyton	Yes.
Ken Hovet	Yes.
Bill Berscheit	Yes, we are taking an existing non-conformity that is encroaching an awful lot <i>more</i> than what the proposed structure is, and removing the existing nonconformity.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	Vote and Comments
Danny Peyton	Yes.
Ken Hovet	Yes.
Bill Berscheit	Yes.
Russ Vandenhuevel	Yes. We are improving what’s there.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	Vote and Comments
Danny Peyton	Yes.
Ken Hovet	Yes.
Bill Berscheit	Yes.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	Vote and Comments
Danny Peyton	Yes.

Ken Hovet	No. Ken stated the height is not an issue for him, but the distance may have been created by the land owners.
Bill Berscheit	Yes, with concerns, built the garage and created the need to use the six-foot gap between the two structures. Without that gap it would only be a few feet into the setback, or perhaps the design could have taken out that last few feet. Said he is not sure and he has reservations, but will say yes.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes, same concerns as Bill, though, with the breezeway and how it was planned.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	Vote and Comments
Danny Peyton	Yes.
Ken Hovet	Yes.
Bill Berscheit	Yes.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	Vote and Comments
Danny Peyton	No. Garage is pushing the issue not the property.
Ken Hovet	Yes.
Bill Berscheit	Yes. Topography did enter in and buildable space also.
Russ Vandenhuevel	Yes.
Larry Bebus	Yes.
Mike Soukup	Yes.

Majority response- Yes.

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	Vote and Comments
Danny Peyton	Yes. Controlling the water run-off from this building will help mitigate not meeting the setbacks.
Ken Hovet	Yes. With the rain garden condition.
Bill Berscheit	Yes. Concern for the water retention, and taking on water from other properties, having significant potential to flood any type of water retention system that's put in, if it is not well placed and well thought out. It is necessary that there be some considerable discussion with staff and a good plan in place, prior to construction, for some type of water retention, infiltration system.
Russ Vandenhuevel	Yes. Removing the old cabin and moving back further.
Larry Bebus	Yes. With the consideration of the condition of the rain garden.
Mike Soukup	Yes. With the need for the rain garden.

Majority response- Yes.

Summary of criteria question majority responses as follows:

#1	Yes.
#2	Yes.

#3	Yes.
#4	Yes.
#5	Yes.
#6	Yes.
#7	Yes.

Ken motioned to approve with conditions:

1. Establishment of a 10' vegetated buffer along the lake frontage. A 6' wide maintained path for dock access shall be allowed.
2. Property owner must maintain a minimum of 50% screening of the proposed structure as viewed from the lake during leaf on conditions.
3. Construction of a water retention structure to retain 50% of the roof water based on a 10 year/24-hour rainfall.
4. Applicant must abide by all other applicable federal, state, and local standards.

Russ seconded, voice vote, no dissent heard, motion carried.

Dan motioned to adjourn and Ken seconded. Voice vote to adjourn. No dissent heard. Motion carried and meeting adjourned at 7:09 PM.