

**MINUTES OF THE MEETING
OF THE
OTTER TAIL COUNTY BOARD OF ADJUSTMENT
Thursday, April 3, 2003**

The Otter Tail County Board of Adjustment met Thursday, April 3, 2003, with the following persons in attendance:

Rod Boyer	Cecil Femling
Paul Larson	Randall Mann
Steve Schierer	Mark Steuart
Pat Eckert, Land and Resource Management	
Kurt Mortenson, Assistant County Attorney	

Call to Order – The Board of Adjustment meeting was opened to the public and was called to order at 6:00 p.m.

Chair –

The first order of business was the selection of the chair for the 2003-year. A motion was made by Cecil Femling second by Steve Schierer to nominated Randall Mann. Hearing no other nominations, motion was made by Mark Steuart, second by Steve Schierer and unanimously carried, to cast a unanimous ballot for Randall Mann as Chair of the Board of Adjustment for the year 2003.

Vice Chair –

Randall Mann, Chair, then called for nominations for the position of vice-chair. A motion was made by Mark Steuart second by Paul Larson to nominated Steve Schierer. Hearing no other nominations, a motion was made by Randall Mann, second by Paul Larson and unanimously carried, to cast a unanimous ballot for Steve Schierer as vice-chair of the Board of Adjustment for the year 2003.

Minutes Approved -

Hearing no corrections or additions the minutes of the December 4, 2002 meeting was approved as mailed.

The following variance requests were heard:

Edward R Larson – Approved with condition. (6:00 p.m.)

Edward R. Larson, Lot 7, Sunny Beach Resort, Little Pine Lake in Gorman Township, requested a variance of 14' 3" from the required ordinary high water level setback of 75' for the construction of a 20' by 25' addition, onto an existing structure, located 60' 9" from the ordinary high water level. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Steve Schierer, second by Paul Larson and unanimously carried, to approve a variance of 14' 3" from the required ordinary high water level setback of 75' for the construction of a 20' by 25' addition 60' 9" from the ordinary high water level with the condition that an existing 6' by 9' 3" shed must be removed by June 1, 2003.

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Lynn and Holly Johnson – Denied. (6:06 p.m.)

Lynn and Holly Johnson, part of Government Lot 2, Section 2 of Everts Township by Otter Tail Lake, requested a variance regarding the surveyor's drawing that is needed when adding onto our personal dwelling. We would like to add onto our house an 18' by 20' family room. This is needed because we don't have enough room to fulfill our needs at this time. The family dwelling is not located on the same lots as the resort. The family dwelling sits on a lot southwest of the resort approximately 300'. Because of the distance between the family dwelling and the resort this wouldn't cause any hardship to the resort itself nor would it cause any interference on the operation of the resort. The cost for a surveyor and his drawing would be \$2,900.00, which would be a big hardship at this time with all the other expenses. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Randall Mann, second by Steve Schierer and unanimously carried, to deny the variance as requested as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested.

Sherman and Alta Mandt – Tabled. (6:17 p.m.)

Sherman and Alta Mandt, part of Government Lot 1, Section 17, part of Government Lot 1 and part of the Southeast Quarter of the Northeast Quarter, Section 18 of Pine Lake Township by Big Pine Lake, requested a variance to subdivide an existing 6.08-acre parcel located in Sections 17 and 18 of Pine Lake Township into two tracts. The parcel in Section 18 would be approximately 4.08 acres and the remaining tract (approximately 2 acres) in Section 17 would be permanently attached to an adjacent parcel owned by Alta Mandt. The adjacent parcel is described as the south half of the southeast quarter of the northeast quarter, Section 18 of Pine Lake Township. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Steve Schierer, second by Cecil Femling and unanimously carried, per the written request of the applicants, to table the applicants' variance hearing until the May 1, 2003 meeting of the Board of Adjustment.

Nicole L. Losee – Denied. (6:19 p.m.)

Nicole L. Losee, Lots 40 and 41, Nedberg-Nye Survey Lots of Government Lots 1, 2 and 3, Devils Lake in Edna Township, requested a variance of 40' from the required ordinary high water level setback of 75' and a variance of 6' from the required road right-of-way setback of 20' for the placement of a 30' by 26' garage 35' from the ordinary high water level and 14' from the road right-of-way. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Steve Schierer, second by Cecil Femling and unanimously carried, to deny the variance as requested as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested. It was also noted that a previously granted variance provides the applicant with a reasonable use of her property.

Janel K. Helfrich – Approved as changed by the applicant. (6:28 p.m.)

Janel K. Helfrich, Lot 10, Sandee Cove Beach, Lake Lida in Lida Township, requested a variance of 8' and a variance of 13' from the required road right-of-way setback of 20' for the placement of 24' by 32' garage 12' from the road right-of-way at the southeast corner of the garage and 7' from the road right-of-way at the northeast corner of the garage. John Helfrich, the applicant's father appeared along with the applicant. The audience was polled with no one speaking for or against the request. A letter from Joyce Valley, Lida Township Clerk, stating that Lida Township had no objection to the applicant's request was read for the record. After consideration, motion was made by Randall Mann, second by Steve Schierer and unanimously carried, to approve a variance of 10' and a variance of 18 to 19' from the required road right of way setback of 20' for the placement of a 24' by 32' garage 10' from the road right-of-way at the southeast corner of the garage and 1 to 2' from the road right-of-way at the northeast corner of the garage. It was noted that the gravel road in question is not used, that Lida Township has no objections to the variance as requested, the proposed location presents no public safety issues and the proposed location will not restrict, interfere or cause damage in anyway to the sewer line that crosses the applicant's lot. It should be noted that the sewer line serves a number of properties in this development.

Bernice Mills - Approved as modified and with a condition. (6:25 p.m.)

Bernice Mills, Lots 6 and 7, Block 1, Pischke and Taylor Addition, Spitzer Lake in Leaf Mountain Township, requested a variance 113' from the required ordinary high water level setback of 200', a variance of 13' from the required shore impact zone setback of 100' and a variance of 5' from the required road right-of-way setback of 20' for the placement of a 35' by 45' dwelling with a 10' by 25' patio and an attached 28' by 35' garage 87' from the ordinary high water level and 15' from the road right-of-way; a variance of 140' from the required ordinary high water level setback of 200', a variance of 40' from the required shore impact zone setback of 100' and a variance of 5' from the required road right-of-way setback of 20' for the placement of a 40' by 60' detached garage 60' from the ordinary high water level and 15' from the road right-of-way and a variance of 98' from the required ordinary high water level setback of 150' for the placement of a sewage system 52' from the ordinary high water level. The audience was polled with Bruce Reno speaking against the variance as requested. After much discussion and consideration, motion was made by Steve Schierer, second by Cecil Femling and unanimously carried, to approve the placement of a detached garage no closer than 100' to the ordinary high water level, to deny all other variances as requested by the applicant and to support the July 9, 1998 variance that was approved for the placement of a dwelling with the condition that a permit for the septic system must be obtained before any other permits can be issued on this property. It was noted that the Land and Resource Department must approve the septic system location. It was also noted that the previously granted variance does provide the applicant with a reasonable use of her property.

Randall Christiansen – Tabled. (7:07 p.m.)

Randall Christiansen, part of the Southwest Quarter of the Northeast Quarter, Section 22 of Parkers Prairie Township by Lake Adley, requested the following: I applied for a building permit and cannot get one because my sewer system was condemned. I do not have a problem with installing a new sewer system. But the City of Parkers Prairie is planning on annexing my property and at that time city water and sewer will be available to my property. The City Administrator told me that the annexation process would be completed in approximately two-years. My request for a variance is one of economics. I don't want to have to pay for a new sewer system and then in two years have to hook up to the city's system. The audience was polled with no one speaking for or against the request. An email from David Campbell, Parkers Prairie City Administrator, in support of the applicant's request was read for the record. Due to weather conditions the applicant was unable to attend the public hearing. After consideration, motion was made by Steve Schierer, second by Paul Larson and unanimously carried, to table this variance request until the May 1, 2003 Board of Adjustment meeting so long as the applicant provides, by April 10, 2003, a written statement authorizing the Board's action to table this hearing, otherwise, the variance as requested by the applicant is denied.

Gregg L. and Nancy M. Johnson – Approved as requested. (7:13 p.m.)

Gregg L. and Nancy M. Johnson, Lot 35, Heilberger Lake Estates, Heilberger Lake in Friberg Township, requested a variance of 22' from the required ordinary high water level setback of 100' for a 10' by 18' second floor addition located 78' from the ordinary high water level. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Paul Larson, second by Steve Schierer and unanimously carried, to approve a variance of 22' from the required ordinary high water level setback of 100' for a 10' by 18' second floor addition located 78' from the ordinary high water level. It was noted that the applicants' proposed project would be no closer to the ordinary high water level than the existing structure and that the roof is in need of repair.

Howard and Joyce Laudert – Denied, (7:18 p.m.)

Howard and Joyce Laudert, Lots 4 and 5, Block 1, Engstrom Beach, West McDonald Lake in Edna Township, requested the following: 1. We would like to divide the property to nearly the original lots. We currently pay separate taxes for each lot. We would need to hire a surveyor to properly do the dividing but if this were approved, we would have him make the division as illustrated on the drawing filed with the variance application. 2. We would need a variance for the higher percentage of impervious surfaces on Lot 5. Our approximate of 27% is slightly higher than the desired 25%. 3. We would need a variance on Lots 4 and 5 if the 10' from building should occur. We think all buildings are within the 10 feet but if the survey proves differently, we would need the variance. This is between the two buildings. The applicants have noted that a new deep well will be needed for both lots and a new holding tank will be needed for Lot 5. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Mark Steuart to table the applicants' request. After additional discussion this motion was withdrawn. After additional discussion and consideration, motion was made by Cecil Femling, second by Paul Larson and unanimously carried, to deny the variance as request as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested and the granting of the variance would establish a precedence by allowing two substandard contiguous lots to be separated.

Gary Viestenz – Approved as requested. (7:40 p.m.)

Gary Viestenz and Dunn Township, part of Lot 65 and all of Lot 66, Provan Beach, Big Pelican Lake in Dunn Township, requested a variance to place a drain field up to and into the township road right-of-way. The required setback is 10' from the road right-of-way. The audience was polled with no one speaking for or against the request. A letter from the Dunn Township Board of Supervisors was read for the record. The letter noted that the township would allow the proposed placement of the drain field in the road right-of-way, but that they would not be responsible or liable for any damage to the drain filed as a result of the system being placed within the road right-of-way. After consideration, motion was made by Cecil Femling, second by Rod Boyer and unanimously carried, to approve a variance to place a drain field up to and into the township road right-of-way. The Board of Adjustment noted the township letter as their reason for approval.

Bruce Fuhrmann – Approved as requested. (7:45 p.m.)

Bruce Fuhrmann, south half of Lot 34 and all of Lot 35, Kimber Beach, Blanche Lake in Girard Township, requested a variance of 54' from the required ordinary high water level setback of 100' for the enclosure of an existing porch 46' from the ordinary high water level. Orvis Jibben appeared along with the applicant at the public hearing. A letter from E. Warren Bessler in opposition to the variance as requested was read for the record. The audience was polled with Orvis Jibben speaking for the variance as request. After consideration, motion was made by Steve Schierer, second by Paul Larson and carried with Rod Boyer and Cecil Femling voting no, to approve a variance of 54' from the required ordinary high water level setback of 100' for the enclosure of an existing porch 46' from the ordinary high water level. Those voting in favor of the motion noted that the applicant's proposed project will not obstruct the view from the neighboring properties nor will it change the existing footprint of the structure.

Donald and Sue Ditty - Denied. (7:58 p.m.)

Donald and Sue Ditty, Lot 2, El Will Beach, Ethel Lake in Girard Township, requested the following: In 2001 we built a wrap around deck on our new double wide home. We did not think we needed a permit or a variance for this. We now know we did. We are requesting a variance for the west side of the wrap around deck, which is connected to the front deck and to the west side of the house. The side door is on this side of the house, which has a higher elevation. So the side door is four feet from the ground. The steps for the side door are also connected to the deck on the west side. We also need a variance for the shed next to the garage. The shed can be moved if needed. Requesting a variance of 6.5' from the required side lot line setback of 10' for the location of the deck 3.5' from the lot line and a variance of 8' from the required side lot line setback of 10' for the placement of an existing shed 2' from the side lot line. A letter from Douglas J. Houska in support of the applicants' request was read for the record. A letter from David Smith stating that he support the variance as requested so long as the Board of Adjustment would grant him the same variance was also read for the record. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Mark Steuart, second by Rod Boyer and unanimously carried, to deny the variances as requested noting that no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested and the only hardship that can be found is a self imposed hardship which is not sufficient for granting a variance from the requirements of the ordinance. The Board of Adjustment stated that the shed and deck issues must be brought into compliance on or before September 1, 2003. It was also noted that had this request been presented to the Board of Adjustment for consideration before completion of the work it would have been denied as well. The Board of Adjustment's denial is consistent with past action of the Board.

Ray A. Chase – Denied. (8:17 p.m.)

Ray A. Chase, Lots 10 and 11, Oxcart Trail, Blanche Creek in Otter Tail Township, requested a variance to allow 50' of Lot 10 to be convey and permanently attached to Lot 9, a variance to construct a 24' by 36' garage on that portion of Lot 10 which is being permanently attached to Lot 9 as depicted on the applicant's drawing, and a variance that would declare the balance of Lot 10 and Lot 11 as a buildable lot. It should be noted that Lot 9 with the additional 50' from Lot 10 would have approximately 51,750 square feet of area and the balance of Lot 10 together with Lot 11 would have approximately 58,750 square feet of area. Carroll and Joyce Rohrich represented the applicant at the public hearing. Mr. and Mrs. Rohrich noted that they are also in need of a variance from the ordinary high water level. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Steve Schierer, second by Paul Larson and unanimously carried, to deny the variance as requested as no adequate hardship had been shown that would allow for the granting of the variance as requested and noting that the granting of the variance as requested would not improve the condition of Lots 10 and 11. The Board of Adjustment also questioned whether Lots 10 and 11 as currently combined would be buildable. Special Note – Carroll and Joyce Rohrich complimented Mavis Samuelson of the Land and Resource Department for all of the assistance and information that she provided to them during the variance application process.

Gregory J. Boedigheimer – Approved as modified. (8:32 p.m.)

Gregory J. Boedigheimer, part of the Northwest Quarter of the Northeast Quarter, Section 18 of Otto Township by the Otter Tail River, requested a variance of 27' from the required ordinary high water level setback of 150' for the addition of a 12' by 28' three season porch 123' from the ordinary high water level of the Otter Tail River. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Randall Mann, second by Cecil Femling and carried with Paul Larson voting no, to approve a variance that would allow for construction no closer to the ordinary high water level than the line that would be created when the south wall of the existing home is extended straight out to the west. No part of the proposed addition can extend in front of the existing south wall of the existing dwelling. It was noted that the variance as granted does provide the applicant with a reasonable use of his property as there is adequate room to the west of the existing structure for the proposed addition.

Neil and Arne Gudmestad – Denied. (8:48 p.m.)

Neil and Arne Gudmestad, Lots 10 and 11, Oakridge Beach, Otter Tail Lake in Amor Township, requested the following: We currently have a variance for a structure 55' by 28' with an attached 10' deck setback 103' from the ordinary high water mark. We request an additional variance to continue the structure in the area where the terrain slopes away from the lake, west toward the back of the lot to the road. The proposed structure will angle back at a 45 degree angle from the 54' point with the corner of the porch setback 45' from the bluff top and the corner of the building set 53' back from the top of the bluff. At the top of the bluff, the terrain slopes away from the lake west toward the road posing no drainage problem and no threat to the lake. A portion (approximately 240 square feet) of the proposed addition will be no closer than 10' from the top of the bluff. Required setback is 30' from the top of the bluff. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Cecil Femling to deny the variance as requested noting that the proposed project area is within the bluff impact zone. After additional discussion this motion was withdrawn. After additional discussion and consideration, motion was made by Paul Larson to approve the variance as requested noting that a substantial amount of work was permitted within the bluff impact zone when the May 6, 1993 variance application was approved and that none of the new proposal will be ahead of what was previously approved. This motion failed for lack of a second. After additional discussion and consideration, the motion to deny the variance as requested was reintroduced by Cecil Femling, second by Rod Boyer and carried with Paul Larson voting no. It was noted that the variance as approved on May 6, 1993 does provide the applicants with a reasonable use of their property.

Mary and Fred Bauck – Denied. (9:18 p.m.)

Mary and Fred Bauck, Lots 26 and 27, Plainview Sandy Beach, Kerbs Lake in Edna Township, requested a variance of 128' from the required ordinary high water level setback of 200' for the construction of a 16' by 40' storage building 72' from the ordinary high water level. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Steve Schierer, second by Mark Steuart and unanimously carried, to deny the variance as requested as the proposed structure, as well as, the applicants' dwelling is within the shore impact zone. It was also noted that there might be another alternative site that would keep the proposed structure out of the shore impact zone.

Mary Rostedt – Denied. (9:30 p.m.)

Mary Rostedt, Lots 22 and 23, Block 1, Oakview Heights, Otter Tail River in Aurdal Township, requested a variance of 4' from the required top of bluff setback of 30' for the placement of one corner of a proposed garage 26' from the top of the bluff. It should be noted that the placement of the proposed garage in this location will provide adequate room to meet the required road right-of-way setback and it will also allow the dwelling to sit straight on the lot for ease in entering and exiting the garage. The front will face the trees and the road instead of facing the neighbor to the west. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Cecil Femling, second by Steve Schierer and unanimously carried, to deny the variance as requested as no adequate hardship unique to the property had been shown that would allow for the granting of the variance as requested. It was also noted that a reasonable use of the property can be obtained without the granting of a variance.

Elaine Skjenven – Tabled. (9:40 p.m.)

Elaine Skjenven, Lot 9, Block 1, Tanglewood Shores, Little Pelican Lake in Dunn Township, requested a variance of 2.5' from the 10' maximum allowable height of water oriented accessory structures for an existing gazebo having an overall height of 12.5'. The audience was polled with no one speaking for or against the request. After consideration, motion was made by Randall Mann, second by Cecil Femling and unanimously carried, to table this variance request until the May 1, 2003 Board of Adjustment meeting so long as the applicant provides, by April 17, 2003, a written statement authorizing the Board's action to table this hearing, otherwise, the variance as requested by the applicant is denied.

Reconsideration –

John Kennedy – Denied. (9:45 p.m.)

John M. Kennedy appeared at the public hearing to request reconsideration by the Board of Adjustment of a decision made by the Board of Adjustment on Wednesday, December 4, 2002. On March 4, 2003 Mr. Kennedy had provided a letter discussing a number of issues concerning his original variance application. This letter has been placed on file. After discussion, a motion was made by Randall Mann, second by Steve Schierer to approve the variance application as originally requested with the condition that an existing wood shed must be removed from its current location and placed next to the existing shop and with the condition that the existing fish house must be fixed up. This motion failed with Cecil Femling, Paul Larson and Mark Steuart voting no and with Rod Boyer abstaining. Those voting in favor of this motion noted that the variance approval would provide Mr. Kennedy the ability to enjoy the same rights and privileges as others within this cluster development. After additional consideration and discussion, motion was made by Paul Larson, second by Mark Steuart and carried, with Randall Mann and Steve Schierer voting no and with Rod Boyer abstaining to deny the applicant's request for reconsideration. The general opinion of those voting in favor of this motion was that a new application should be submitted for review, but that it should be clearly understood that even if a new application is submitted it is no guarantee that the request would be approved.

Other Business –

Pat Eckert, Land and Resource Department, presented on behalf of Judith Lien a request to change the size of their proposed structure from 24' by 40' to 26' by 40' and to change the location where the proposed structure will be placed from that which was discussed and approved at the September 5, 2002 Board of Adjustment meeting. The Board of Adjustment stated that they had no objections to the proposed changes so long as no additional variances are required.

With no further business Randall Mann, Chairman, declared the meeting adjourned at 10:05 p.m.

Wayne Stein, Secretary