

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, February 18, 2021 at 6:30 PM**

I. Call to Order

A. Roll Call

The meeting was called to order electronically by Acting Chair Charlie Peters at 6:34 p.m.

Members present were: Preston Bauer, Charlie Peters, John McCarthy.

Members absent were: Michael Streiff, Jill Ellingson.

Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Administrative Coordinator Anna Aguilar.

Others present: see Registrant List.

B. Motion by Preston Bauer, seconded by John McCarthy, Reading of the Notice.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, John McCarthy, NAYS: None

C. Motion by John McCarthy, seconded by Preston Bauer, Approval of the Agenda.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, John McCarthy, NAYS: None

II. Old Business

1. Variance/Mitchell - Section 21, Wells Township

Barbara Mitchell has applied for a 30-ft variance from the 120-ft Lake setback limitation to allow for a new house in a Planned Unit Development (PUD) to be built 90-ft from Roberds Lake also requested is a variance to allow for removal of the existing lakeshore vegetation and grading to remove the top 7-ft of elevation within the shore impact zone of Roberds Lake. The property is described as: Lot 5, Block 2, Winjum's West Shore Addition, Rice County, Minnesota. PID#: 10.21.2.26.006. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by John McCarthy, to deny the Variance request for Barbara Mitchell to grade in the Shore Impact Zone with the following findings. The property is located in Section 21 of Wells Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, John McCarthy, NAYS: None

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
TM - Tonight is to take action on the grading request and to provide findings.

PB - We are looking at Lot 5, and Lot 4 is the one that has graded the shore impact zone (SIZ) and that was not given a variance, correct?

TM - Correct.

PB - What does our ordinance state regarding grading within the SIZ.

TM - The ordinance addresses not grading within the SIZ in multiple spots. TM *read chapter 506.*

JM - On the previous slide of the winter view with the shoreline, the lot to the left of the subject lot, that looks like the grading was done a while ago or is that natural?

TM - The lake shore varies along this area of the lake. The entire planned unit development (PUD) was graded when the road was done, other than the additional grading done on Lot 4.

PB - What can be done or is allowed under the ordinance, to the current SIZ.

TM - *Read more of Chapter 506.* The minimum is to allow access to the lake or removal of damaged or diseased trees or exotic species like Buck Thorn. During my visit, I saw Prickly Ash, not Buck Thorn, which is a native species.

The BOA asked the applicant, Barbara Mitchell (BM), to come forward to add comments or answer questions regarding the request.

BM - I don't have to go into anything we spoke about last time, correct? Most of that was going into detail of what was done on Lot 4 and us asking for the same consideration.

CP - That is correct. Lot 4 is noncompliant. All information discussed during the last meeting is part of the record. Do you have anything new/different to add?

BM - We would still like to be given the same consideration. Because of what they did, we have four slopes on our lot which includes the easement in the front. We are concerned with the lakeshore because it looks sloppy. I would like to add a comment in regards to the vegetation removal request. You can see there are only a couple of lots that still have vegetation on them. I would like to address the DNR comments of allowing removal in phases which we are willing to do. We would like to change the vegetation out with other native species and we would do it over time so we do not impact the SIZ. I have requested additional information on Lot 4 from the County and I have only received some of it, so my assumption is that it doesn't exist or processes were not followed.

CP - The original conditions of approval, there were 7. Those are still valid, correct?

TM - Yes, the conditions stated in January are as they were approved for that portion of the variance.

PB - Do you feel this is a minimum request to afford relief?

CP - PB is referring to the criteria form you submitted with the packet.

BM - I don't have my criteria sheet in front of me. You mean on the original questionnaire?

TM - Yes, page 37 of the packet.

CP - The full response to question #7 is on page 39.

JM - On question #7, it states 40-ft a number of times, but the request is for 30-ft.

BM - Yes, originally we were planning a deck but we are aware the back of the house is 30-ft closer from the lakeshore.

Acting Chair Peters opened the public testimony portion of the item to the public and no one spoke.

Acting Chair Peters closed the public testimony portion of the item to the public.

Discussion:

PB - I was just trying to clarify for the Findings of Facts, with the Chapter 506 section, there isn't much to support their request to grade within the SIZ. It is not the minimum request.

CP - I don't see any issue with clearing noxious weeds or trees or with adding a stairway down to the water, but clearing 7-ft to make a smoother shoreline is not the minimum.

PB - Vegetation management related to clean up is allowed based on what is appropriate within the ordinance. As far as excavating and grading, the home and the plan is to conform to the lot, not the lot to the home.

JM - I concur with these comments. It is a buildable lot without having to go through the major regrading. I am opposed to the regrading and changing of the contours.

CP - I will motion that we deny the request to grade within the SIZ.

BM - *Applicant asked for a chance to add a statement.* I want to point out that the DNR stated that variances should not be issued as a convenience after the fact, if that is what is being considered for Lot 4. It was not approved and it does impact the surrounding lots.

CP - That is another lot and another issue. I motion to deny this variance request.

JM - I will second.

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

- *Proposed use is allowed in the property's zoning district;*
Yes, grading is permitted if granted a variance.
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
No, our Zoning Ordinance and Comprehensive Plan do not allow destruction of the SIZ. (TM - goal 20 & 48 of the comp plan)
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
No, the applicant could alter the construction plan to fit the lot.
- *The request stems from circumstances unique to the property, not one created by the landowner;*
No, again, the proposed structure plan could be altered to fit the lot. The lot is buildable without grading the SIZ.

- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
No, this request would further alter the shoreline, impacting the surrounding properties and views from the lake.
- *This is the minimum variance necessary to afford relief;*
No, the minimum would allow a stairway and minimal grading in a 10-ft area.
- *Adequate sewage treatment and water capabilities can be provided;*
Yes
- *The variance would have no significant impact on public health or safety; and*
Yes
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*
No, the Board of Adjustment has not allowed grading of the SIZ in the past nor does it intend to going forward.

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

TM - In regards to number 4, it is not in harmony with Goal 20 & 48 of the Comprehensive Plan.

- *Goal 20 – Preserve, protect and improve the surface and underground waters including, but not limited to, rivers, streams, lakes, groundwater and aquifer recharge areas.*
- *Goal 48 – Minimize the potential for air, waters and, land contamination and pollution that could result from the development process.*

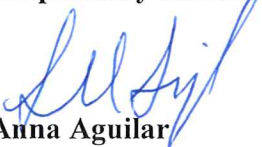
Motion made, seconded, and variance denied unanimously.

TM: There was some talk about changing or modifying the vegetation. Following what is allowed under our Zoning Ordinance, we can work with the Applicant to come up with a plan for that as long as the view from the lake doesn't change.

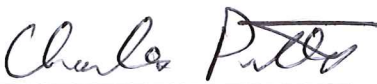
III. Adjournment

Hearing no other items before the BOA, a motion was made by Bauer, second by McCarthy, to adjourn the meeting at 7:11 pm. Motion carried 3-0.

Respectfully Submitted


Anna Aguilar
Administrative Coordinator

Board of Adjustment Acting Chair


Charlie Peters