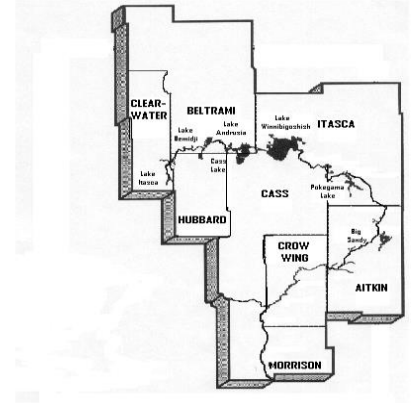




**Mississippi Headwaters Board
Meeting Agenda
Cass County Courthouse
Walker, MN
October 21, 2016
10:00 am**



- **Call to Order/Pledge of Allegiance**

10:00 AM Approve/Amend

- Agenda
- Consent Agenda – September '16 Minutes & Expenses (**att. 1 & 2**)

Planning and Zoning (Actions)

- M10a16- Ann Gerbi variance (**att. 3**)

Public Hearing For Caron Variance

Caron Appeal Hearing 10:20 AM

10:20 AM

- Request for new updates and supporting data
- Discussion of variance

10:45 AM

- Decision of the MHB Board
- Hearing adjourned- break

ED Staff Report & Correspondence (att. 4)

Action / Discussion Items:

- Comprehensive Management Plan Update Process (**att. 5**)
- Private Forest Management: from Planning to Implementation (40 minutes)

Misc: ☀ Legislature Update (if any) ☀ County Updates (if any)

Meeting Adjourned - Thank you

Mtgs:

November 18, '16, 10:00 AM – MHB Board meeting- Walker, MN

Attachment 1 & 2

Draft Minutes

Monthly Expenses

**Mississippi Headwaters Board
(MHB) September 16, 2016
Cass County Courthouse, Walker MN
56484**

**MEETING
MINUTES**

Members present: Cal Johannsen (Hubbard), Kevin Maurer (Morrison), Davin Turnquist (Itasca), Dean Newland (Clearwater) Neal Gaalswyk (Cass-by phone), and Tim Terrill (Executive Director).

Others Present: Amy Kowalzek (Morrison ESD).

Chairman Maurer called the meeting to order followed by the Pledge of Allegiance.

M/S Newland/Johannsen to move Planning and Zoning Items to the beginning of the agenda. Motion Carried.

M/S Johannsen/Newland to accept the consent agenda. Motion Carried.

Planning and Zoning Actions

M/S Turnquist/Johannsen to certify the Varriano variance as submitted by the Morrison Environmental Services Department and to include the PC's findings and conditions. Motion Carried.

Executive Director's Report

- Reviewed monthly budget and expense report.
- Prepared agenda.
- Reviewed forth coming variances.
- Sent out press releases about fee title and easement programs.
- Went over Forestry Plan with Crow Wing County for a possible harvest.
- Researched attending the Governors Deer Opener to be held at Breezy Point Resort.
- Set up AIS infomercial shoots at Breezy Point.
- Attended Outdoor Heritage Council hearing with Chairman Maurer.
- Held OHC pre council meeting to answer questions from OHC members.
- Attended a meeting with Grand Rapids to discuss wetland delineations and Brown Bat issues.

Action/Discussion Items

Tim distributed information about sponsorship for the Governors Deer Opener. He would like to do more MHB outreach and thought perhaps this would be good start. At this time the board members reached consensus that this is not a direction they wished to pursue at this time.

Tim discussed updating the MHB Comprehensive Plan. There are several areas of the current plan that need to be updated. The last time the plan was updated was in 2002 and it was very expensive because a consultant was used. The board gave Tim permission to update the plan and bring back to the board for review.

Next meeting to be held October 21, 2016 at the Cass County Commissioners meeting room in the Cass County Courthouse.

M/S Johannsen/Turnquist to adjourn at 11:18 A.M. Motion carried.

Kevin Maurer, Chairman

Tim Terrill, Executive Director

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 1
glacthst

ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE
74830	74-00-830-000-000-000-0000-53180-			Environmental Assistance /MPCA					
				REVISIED BUDGET					.00
					PER 01		-735.84	-735.84	
					PER 02		-598.24	-1,334.08	
					PER 04		-1,889.21	-3,223.29	
					PER 06		-4,322.42	-7,545.71	
					PER 08		-4,456.70	-12,002.41	
16/09	218 09/08/16 GNI						-5,418.76	-17,421.17	
	ST OF MN INVOICE 1								
	LEDGER BALANCES --- DEBITS:		.00		CREDITS:		-17,421.17	NET:	-17,421.17
74830	74-00-830-000-000-000-0000-58300-			Miscellaneous Other Revenue					
				REVISIED BUDGET					.00
					PER 02		-67,588.00	-67,588.00	
					PER 03		53,000.00	-14,588.00	
					PER 06		-263.00	-14,851.00	
					PER 08		-15,000.00	-29,851.00	
16/09	203 09/12/16 GNI 602075 Lisak		18632				-26.90	-29,877.90	
	iNovah PILOT NEWSPAPER REFUND								
	LEDGER BALANCES --- DEBITS:		53,000.00		CREDITS:		-82,877.90	NET:	-29,877.90
74830	74-00-830-000-000-000-0000-61000-			Salaries & Wages - Regular					
				REVISIED BUDGET					.00
					PER 01		4,603.54	4,603.54	
					PER 02		4,603.54	9,207.08	
					PER 03		4,955.71	14,162.79	
					PER 04		7,112.46	21,275.25	
					PER 05		4,741.65	26,016.90	
					PER 06		4,741.65	30,758.55	
					PER 07		4,741.65	35,500.20	
					PER 08		4,741.65	40,241.85	
16/09	8 09/02/16 PRJ pr0902 1160902 1160902						2,370.83	42,612.68	
	pay090216 WARRANT=160902 RUN=1 BI-WEEKL								
16/09	268 09/16/16 PRJ pr0916 1160916 1160916						2,370.82	44,983.50	
	pay091616 WARRANT=160916 RUN=1 BI-WEEKL								
16/09	583 09/30/16 PRJ pr0930 1160930 1160930						2,370.82	47,354.32	
	pay093016 WARRANT=160930 RUN=1 BI-WEEKL								
	LEDGER BALANCES --- DEBITS:		47,354.32		CREDITS:		.00	NET:	47,354.32

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 2
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE
74830	74-00-830-000-000-000-0000-61200-			Active Insurance					
						REVISED BUDGET			.00
					PER 01		1,385.52	1,385.52	
					PER 02		1,385.52	2,771.04	
					PER 03		1,407.87	4,178.91	
					PER 04		1,405.93	5,584.84	
					PER 05		1,385.52	6,970.36	
					PER 06		1,385.52	8,355.88	
					PER 07		1,406.96	9,762.84	
					PER 08		1,406.53	11,169.37	
16/09	8 09/02/16 PRJ pr0902 1160902 1160902						701.86	11,871.23	
	pay090216 WARRANT=160902 RUN=1 BI-WEEKL								
16/09	268 09/16/16 PRJ pr0916 1160916 1160916						704.67	12,575.90	
	pay091616 WARRANT=160916 RUN=1 BI-WEEKL								
	LEDGER BALANCES --- DEBITS:		12,575.90						
					CREDITS:		.00	NET:	12,575.90
74830	74-00-830-000-000-000-0000-61300-			Employee Pension & FICA					
						REVISED BUDGET			.00
					PER 01		667.48	667.48	
					PER 02		667.47	1,334.95	
					PER 03		724.21	2,059.16	
					PER 04		1,050.98	3,110.14	
					PER 05		688.39	3,798.53	
					PER 06		688.38	4,486.91	
					PER 07		691.79	5,178.70	
					PER 08		691.80	5,870.50	
16/09	8 09/02/16 PRJ pr0902 1160902 1160902						344.20	6,214.70	
	pay090216 WARRANT=160902 RUN=1 BI-WEEKL								
16/09	268 09/16/16 PRJ pr0916 1160916 1160916						347.61	6,562.31	
	pay091616 WARRANT=160916 RUN=1 BI-WEEKL								
16/09	583 09/30/16 PRJ pr0930 1160930 1160930						359.17	6,921.48	
	pay093016 WARRANT=160930 RUN=1 BI-WEEKL								
	LEDGER BALANCES --- DEBITS:		6,921.48						
					CREDITS:		.00	NET:	6,921.48
74830	74-00-830-000-000-000-0000-62100-			Telephone					
						REVISED BUDGET			.00
					PER 01		61.65	61.65	
					PER 02		62.76	124.41	
					PER 03		57.50	181.91	
					PER 04		61.97	243.88	
					PER 05		59.41	303.29	
					PER 06		60.37	363.66	

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 3
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE
					PER 07		56.93	420.59	
					PER 08		59.20	479.79	
16/09	268 09/16/16 PRJ pr0916 1160916 1160916						55.00	534.79	
	pay091616 WARRANT=160916 RUN=1 BI-WEEKL								
16/09	335 09/20/16 API 006205 33597 7479 B						1.80	536.59	
	W A092016 Sep CTC & 08/01-08/31 LD CALLS CONSOLIDATED TELECOM								
16/09	335 09/20/16 API 006205 33597 7479 B						2.15	538.74	
	W A092016 Sep CTC & 08/01-08/31 LD CALLS CONSOLIDATED TELECOM								
	LEDGER BALANCES --- DEBITS:		538.74		CREDITS:		.00	NET:	538.74
74830	74-00-830-000-000-000-0000-62680- Non-Employee Per Diems								
	REVISED BUDGET								.00
					PER 01		250.00	250.00	
					PER 02		300.00	550.00	
					PER 03		200.00	750.00	
					PER 04		250.00	1,000.00	
					PER 05		150.00	1,150.00	
					PER 06		309.40	1,459.40	
					PER 07		447.96	1,907.36	
					PER 08		235.20	2,142.56	
16/09	268 09/16/16 PRJ pr0916 1160916 1160916						50.00	2,192.56	
	pay091616 WARRANT=160916 RUN=1 BI-WEEKL								
16/09	335 09/20/16 API 002833 33613 7483 B						83.16	2,275.72	
	W A092016 MILEAGE FOR MHB MTG Maurer, Kevin J.								
16/09	335 09/20/16 API 100532 33614 7486 B						50.00	2,325.72	
	W A092016 PER DIEM FOR MHB MTG Morrison County Audi								
16/09	335 09/20/16 API 002837 33615 7482 B						50.00	2,375.72	
	W A092016 MILEAGE AND PER DIEM FOR MHB M Johannsen, Calvin								
16/09	335 09/20/16 API 002809 33616 7505 B						50.00	2,425.72	
	W A092016 MILEAGE AND PER DIEM FOR MHB M TINQUIST, DAVIN C.								
16/09	335 09/20/16 API 002534 33617 7488 B						50.00	2,475.72	
	W A092016 PER DIEM FOR MHB MTG Newland, Dean								
	LEDGER BALANCES --- DEBITS:		2,475.72		CREDITS:		.00	NET:	2,475.72
74830	74-00-830-000-000-000-0000-62720- Non-Employee Mileage								
	REVISED BUDGET								.00
					PER 01		312.12	312.12	
					PER 02		353.16	665.28	
					PER 03		169.56	834.84	

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 4
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE
					PER 04		361.26	1,196.10	
					PER 05		185.22	1,381.32	
					PER 06		272.16	1,653.48	
					PER 07		199.26	1,852.74	
					PER 08		394.42	2,247.16	
16/09	335 09/20/16	API 002837		33615	7482	B	27.00	2,274.16	
	W A092016	MILEAGE AND PER DIEM FOR MHB M Johannsen, Calvin							
16/09	335 09/20/16	API 002809		33616	7505	B	64.80	2,338.96	
	W A092016	MILEAGE AND PER DIEM FOR MHB M TINQUIST, DAVIN C.							
16/09	907 09/30/16	GNI AUGUST				B	45.36	2,384.32	
	WF PCARD	MHB							
		PAUL THIEDE-OOP							
	LEDGER BALANCES --- DEBITS:		2,384.32		CREDITS:		.00	NET:	2,384.32
74830	74-00-830-000-000-000-0000-62990-	Prof. & Tech. Fee - Other			REVISED BUDGET				.00
					PER 01		1,215.68	1,215.68	
					PER 02		525.00	1,740.68	
					PER 03		20,949.94	22,690.62	
					PER 04		2,085.26	24,775.88	
					PER 05		5,081.33	29,857.21	
					PER 06		525.00	30,382.21	
					PER 07		15,219.55	45,601.76	
					PER 08		13,456.84	59,058.60	
16/09	335 09/20/16	API 003845		33618	901267	B	46,534.00	105,592.60	
	W A092016	Q4 TV AIRTIME PURCHASE			FISHING THE WILDSIDE				
16/09	357 09/21/16	API 003845		33740	901308	B	19,500.00	125,092.60	
	W A092716	INITIATIVE FOUNDATION Q4 IF AI FISHING THE WILDSIDE							
16/09	902 09/30/16	GEN				B	525.00	125,617.60	
	RECURRING	FINANCIAL SERVICE							
16/09	907 09/30/16	GNI AUGUST				B	165.00	125,782.60	
	WF PCARD	Statewide AIS registration							
		TIM TERRILL-VP MN LAKES RIVERS ADVO							
16/09	907 09/30/16	GNI AUGUST				B	7.08	125,789.68	
	WF PCARD	water for canoe days							
		TIM TERRILL-WM SUPERCENTER #1654							
16/09	907 09/30/16	GNI AUGUST				B	30.00	125,819.68	
	WF PCARD	snacks for canoe days							
		TIM TERRILL-PAYPAL CENTER							
16/09	907 09/30/16	GNI AUGUST				B	4.79	125,824.47	
	WF PCARD	board meeting snack							
		TIM TERRILL-SUPER ONE FOODS #45							
16/09	907 09/30/16	GNI AUGUST				B	85.22	125,909.69	
	WF PCARD	LSOHC proposal documents							
		TIM TERRILL-INSTY-PRINTS OF BRAINERD							

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 5
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE	
LEDGER BALANCES --- DEBITS:				125,909.69	CREDITS:		.00	NET:	125,909.69	
74830	74-00-830-000-000-000-0000-63320-	Employee Mileage								
								REVISED BUDGET	.00	
					PER 01		520.59	520.59		
					PER 02		806.60	1,327.19		
					PER 03		254.73	1,581.92		
					PER 04		265.24	1,847.16		
					PER 05		512.62	2,359.78		
					PER 06		206.99	2,566.77		
					PER 07		430.76	2,997.53		
					PER 08		266.38	3,263.91		
16/09	907 09/30/16 GNI AUGUST					B	147.42	3,411.33		
	WF PCARD mileage LSOHC hearing									
	TIM TERRILL-OOP									
16/09	907 09/30/16 GNI AUGUST					B	21.33	3,432.66		
	WF PCARD mileage Canoe Days									
	TIM TERRILL-OOP									
16/09	907 09/30/16 GNI AUGUST					B	45.74	3,478.40		
	WF PCARD mileage Little Falls conserva									
	TIM TERRILL-OOP									
16/09	907 09/30/16 GNI AUGUST					B	123.66	3,602.06		
	WF PCARD mileage Clearwater Board Meet									
	TIM TERRILL-OOP									
16/09	907 09/30/16 GNI AUGUST					B	147.42	3,749.48		
	WF PCARD mileage LSOHC testify proposa									
	TIM TERRILL-OOP									
LEDGER BALANCES --- DEBITS:				3,749.48	CREDITS:		.00	NET:	3,749.48	
74830	74-00-830-000-000-000-0000-63340-	Hotel & Meals Travel Expense								
								REVISED BUDGET	.00	
					PER 01		115.53	115.53		
					PER 05		39.13	154.66		
					PER 08		95.46	250.12		
16/09	907 09/30/16 GNI AUGUST					B	8.68	258.80		
	WF PCARD lunch at capitol									
	TIM TERRILL-WENDYS34									
16/09	907 09/30/16 GNI AUGUST					B	7.86	266.66		
	WF PCARD food during LSOHC break									
	TIM TERRILL-DOT CAFE			Q42						
16/09	907 09/30/16 GNI AUGUST					B	8.53	275.19		
	WF PCARD food before LSOHC meeting									
	TIM TERRILL-CHICK-FIL-A #03153									
LEDGER BALANCES --- DEBITS:				275.19	CREDITS:		.00	NET:	275.19	

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 6
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE	
74830	74-00-830-000-000-000-0000-63360-	Other Travel Expenses								
							REVISED BUDGET		.00	
16/09	907 09/30/16	GNI AUGUST				B	8.00	8.00		
	WF PCARD	parking at State Capitol for								
		TIM TERRILL-MN ST IAP ADM PMD PARK								
16/09	907 09/30/16	GNI AUGUST				B	8.00	16.00		
	WF PCARD	parking at Capitol for LSOHC								
		TIM TERRILL-MN ST IAP ADM PMD PARK								
	LEDGER BALANCES --- DEBITS:			16.00	CREDITS:		.00	NET:	16.00	
74830	74-00-830-000-000-000-0000-63380-	Training & Registration Fees								
							REVISED BUDGET		.00	
					PER 02		70.00	70.00		
					PER 05		85.00	155.00		
16/09	907 09/30/16	GNI AUGUST				B	118.34	273.34		
	WF PCARD	Hotel for LSOHC hearing								
		TIM TERRILL-LQ BLOOMINGTON LLC								
16/09	907 09/30/16	GNI AUGUST				B	113.14	386.48		
	WF PCARD	Room for LSOHC overnight stay								
		TIM TERRILL-LA QUINTA INNS 4029								
	LEDGER BALANCES --- DEBITS:			386.48	CREDITS:		.00	NET:	386.48	
74830	74-00-830-000-000-000-0000-64090-	Office Supplies								
							REVISED BUDGET		.00	
					PER 01		20.37	20.37		
					PER 02		25.27	45.64		
					PER 03		49.44	95.08		
					PER 04		4.28	99.36		
					PER 05		4.18	103.54		
					PER 06		15.77	119.31		
					PER 07		8.47	127.78		
					PER 08		163.40	291.18		
16/09	907 09/30/16	GNI AUGUST				B	1.78	292.96		
	WF PCARD	mailing of DNR contract with								
		TIM TERRILL-USPS 26110004033407503								
16/09	907 09/30/16	GNI AUGUST				B	6.50	299.46		
	WF PCARD	mailing of agenda packet								
		TIM TERRILL-USPS 26110004033407503								
16/09	907 09/30/16	GNI AUGUST				B	1.26	300.72		
	WF PCARD	office supplies- pencils								
		TIM TERRILL-TARGET	00006593							
	LEDGER BALANCES --- DEBITS:			300.72	CREDITS:		.00	NET:	300.72	
	GRAND TOTAL --- DEBITS:			255,888.04	CREDITS:		-100,299.07	NET:	155,588.97	

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 7
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ORG YR/PR	ACCOUNT JNL EFF DATE	SRC REF1	REF2	REF3	CHECK #	OB	AMOUNT	NET LEDGER BALANCE	NET BUDGET BALANCE
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45 Records printed

** END OF REPORT - Generated by Alaina Bundy **

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Crow Wing County
ACCOUNT DETAIL HISTORY FOR 2016 09 TO 2016 09

P 8
glacthst

REPORT OPTIONS

Print GL Master Start-of-Year Balances?: Y
Year and Period range: 2016 9 to 2016 9
Source journal code:
Include entries between dates: 01/01/70and 10/10/16
Include Encumb/Liq entries: N
Include Budget entries: N
Print J/E comment and vendor: Y
Double space journal detail: N
Separate page for each account: N
Multiyear view: D
Print report options: Y
Cash account: Subtotal by Date or Ref3/Deposit #: N

Planning and Zoning (att. 3)

M10a16- Ann Gerbi Variance

**Board of Adjustment Findings
(PID 22.0510.000)**

Applicant: Ann Gerbi

Variance Request: Variance to encroach on setback from the river with a septic system

Date of Hearing: October 4, 2016

The property is located in Section 36 of Pike Creek Township, on the Mississippi River.

The .34 acre property is a legal non-conforming parcel size. Five acre parcels are required within MHB zoning.

No septic system information is on file for this property.

In July 2016, the property owner experienced a cave-in of her yard. The area of cave in was where the septic system was located. According to the septic system designer/inspector, the system is made up of three tanks. One of the tank tops caved in under the weight of the saturated soils above it.

A replacement septic system has been designed consisting of a 1500 gallon two-compartment tank and a 380 square foot mound drainfield. The site is limited due to the small lot size and the location of neighboring wells.

The required setback from the river for a septic tank and drainfield is 125 feet. The property owner is proposing the septic tank to be 90 feet from the river and the drainfield to be 70 feet from the river.

Since the property owner's current well will not meet setback from this proposed system, a new drilled well will be installed in a different location to achieve the Minnesota Department of Health required setback.

The existing impervious surface is 22.94% - allowable impervious surface is 25%

At the DRT meeting, staff discussed with the applicant the required setbacks for septic systems, the limitations on the parcel and the variance process.

Applicable Comprehensive Land Use Plan Goals:

Goal C2: Preserve natural resources identified as critical and sensitive including wildlife habitats, wetlands, forest lands, etc., within Morrison County.

Goal C3: Preserve and protect the quality of the County's groundwater and surface water resources to ensure its suitability for drinking water and/or recreational purposes.

Goal D1: Work to ensure that development occurring within the County's watersheds is done in a thoughtful and deliberate manner so as to balance environmental, social and economic goals to the greatest extent possible.

Goal E3: Ensure that the County's lakes and rivers remain a resource that is available for use and enjoyment by the general public.

Objectives:

4. Identify areas of the County that have significant risks for groundwater and surface water pollution or which have already been polluted and study ways in which to protect or restore these resources. Consider soil types, depth to groundwater, demand for drinking water and other relevant factors in identifying the most susceptible areas.

12. Ensure that efforts to protect surface waters consider activities and land uses throughout the entire watershed.

Applicable Morrison County Comprehensive Water Plan Goals and Objectives:

Surface Water Goal: To protect, enhance and maintain the quality of all surface waters in Morrison County (lakes, rivers, streams and wetlands)

Objective B: Ensure that land use decisions for shoreland development take environmental impacts into consideration

Objective C: Provide protection and enhancement to the county's high quality lakes, rivers, wetlands

Land Use and Development Goal: To ensure that land use decisions are compatible with natural resource protection

Objective B: Reduce the pressure/impacts of shoreland, rural residential and marginal land development

Objective D: Promote storm-water/drainage/floodwaters management

The Board of Adjustment viewed the property on September 30, 2016.

A plat map, aerial photographs, a septic system site plan and site photographs were presented to the board.

91 notices were mailed; one telephone call was received prior to the hearing, in favor of the request

Kevin Maurer, District 1 County Commissioner and Mississippi Headwaters Board (MHB) Chair, commented at the hearing that a goal of the MHB is to bring failing septic systems into compliance.

Mr. Boone, a member of the Pike Creek Town Board left comment at the public hearing that the township board supports the variance request.

The Board of Adjustment discussed their observations at the viewing, the nice yard area on the river side of the property with very little impervious surface and the fact that the home is set back from the river.

Five members of the Board of Adjustment were present at the hearing.

The following factors for consideration of a practical difficulty were:

1. Is the request in harmony with the general purpose and intent of the Morrison County Land Use Ordinance and Comprehensive Plan.
2. Is the applicant proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance.
3. Will the issuance of the variance maintain the essential character of the locality.
4. Is the alleged practical difficulty due to circumstances unique to the property.
5. Is the need for the variance created by actions other than the landowner or prior landowners.
6. Does the alleged practical difficulty involve more than just economic considerations.

Conclusions

1. The Morrison County Board of Adjustment found the request was in harmony with the intent of the Comprehensive Plan and Land Use Ordinance. The intention of the ordinance and comprehensive plan is to have septic systems meet specifications. The upgrade of this system would enhance groundwater quality and furthers the water plan's surface water goal. (5) yes (0) no
2. The Board of Adjustment found the applicant was proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance. An enormous amount of water has caused this issue, and this is likely the first of many similar issues on the riverfront. There is no addition of impervious surface. (5) yes (0) no
3. The Board of Adjustment found the issuance of the variance would maintain the essential character of the locality. This is a residential lot within a residential neighborhood. The septic system will not be easily noticed, as it will be a mound drainfield planted to grass. (5) yes (0) no
4. The Board of Adjustment found the alleged practical difficulty was due to circumstances unique to the property. This site is limited due to the small lot size. Also, the neighbor's well location limits placement of the septic system. The property owner must drill a new water well to make this location work. (5) yes (0) no
5. The Board of Adjustment found the need for the variance was created by actions other than the landowner or prior landowners. The existing system collapsed due to excessive water; it must be repaired. (5) yes (0) no
6. The Board of Adjustment found the alleged practical difficulty did involve more than just economic considerations. This property must have a treating septic system. The property owner is relocating her well, at considerable expense. (5) yes (0) no

Based on the findings and the criteria as stated in Minnesota Statutes 394.27, a motion was made by Dave Stish, and seconded by Jerry Wenzel to grant the variance to replace the existing septic system with a septic tank 90 feet and a mound drainfield 70 feet from the Mississippi River.

Chairman
Morrison County Board of Adjustment

Date

APPLICATION FOR PUBLIC HEARING

Morrison County Planning & Zoning Office
213 1st Avenue S.E., Little Falls, MN 56345
Telephone (320) 632-0170 Fax (320) 632-0174

Variance Request

Name of Applicant: ANN M. Gerbi

Address: 12606 Great River Rd.

City: Little Falls State: MN Zip: 56345

Property Address: 12606 Great River Rd

City: Little Falls State: MN Zip: 56345

Parcel Number: 22-0510-000 Phone: 320-632-8318

Sec: 36 Twp: 129 Range: 30 Twp. Name: Pike Creek

Lake/River Name: Mississippi River

0.34 Acres Section 36 Township 129 Range 030 PTOF GOVT LOT 2

Legal Description: DESC AS: COM AT INTERS OF S LN OF LOT 2 & ELY LN OF TWP RD RUNN IN GEN N + S DIR THRU LOT 2, S LN OF LOT 2 BEING AN AGREED BDY (ATTACH A COPY OF YOUR LEGAL DESCRIPTION OFF YOUR DEED). AS MARKED BY A FENCE, N 2*18' E 425 FT ALG ELY LN OF TWP RD, N 5*48' E 205.6 FT ALG TWP RD TO PT OF BEG, S 82*31'

TWO SEPARATE CHECKS ARE REQUIRED

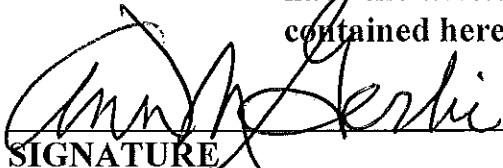
Sept 7th, 2016 DEADLINE - Drop by the 7th.

Public Hearing Fee: (Non-returnable) \$ 500.00 to MORRISON COUNTY TREASURER.

Recording Fee: (Non-returnable) \$ 46.00 to MORRISON COUNTY RECORDER.

**** APPLICATION WILL NOT BE PROCESSED UNLESS ALL THE REQUIRED FORMS ARE COMPLETED AND FEES PAID BY THE DEADLINE DATE.

AGREEMENT: I hereby certify that I am the owner of the herein described property, or, have the written permission of the owner, and that the information contained herein is accurate.


SIGNATURE

9/5/16
DATE

Application for Public Hearing

Morrison County Planning & Zoning Office

213 1st Avenue S. E., Little Falls, MN 56345

Telephone

Fax

Variance Request

Name of Applicant: Ann M. Gerbi

Address: 12606 Great River Road.

City: Little Falls State: MN Zip: 56345

Property Address: 12606 Great River Road.

City: Little Falls State: MN Zip: 56345

Parcel Number: 22-0510-000 Phone:

Sec: 36 Twp: 129 Range: 30 Twp. Name: Pike Creek

Lake/River Name: Mississippi River

Legal Description: Enclosed is a copy of the legal description off my Deed.

Ann M. Gerbi 9/5/16

(C)

(O)

Please explain your request in detail:

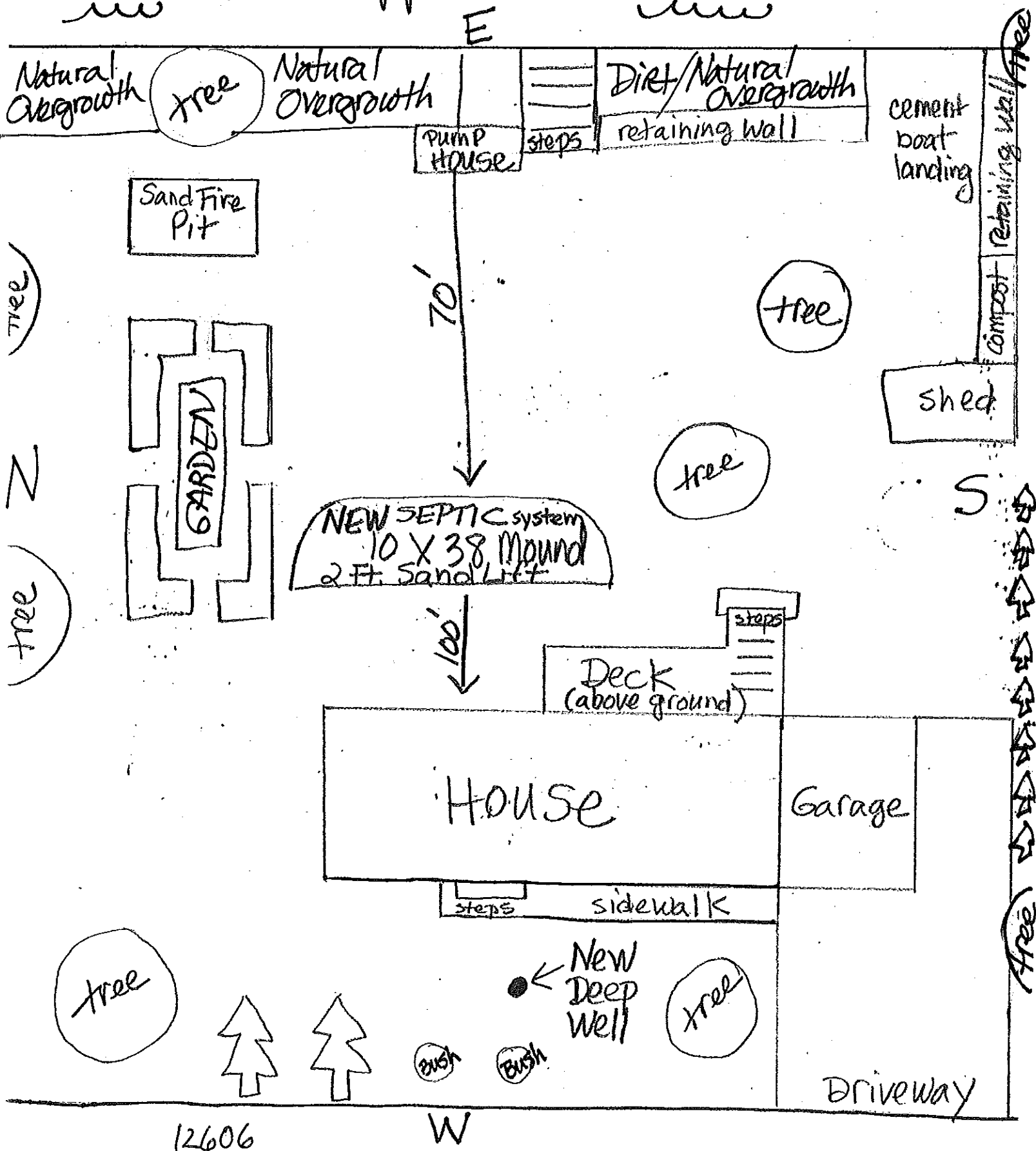
On Monday, July 11th, heavy rainfall- an unavoidable act of God-created a disturbance on my property where my septic tanks are located. Experts have assessed the damage and determined that a new septic system needs to be installed. A new, deeper well will also need to be drilled to avoid any potential cross-contamination. Great care was taken to draft plans (attached) in compliance with all relevant city/county ordinances. While the financial burden of these plans is considerable, they are vital for maintaining the upkeep, value and functionality of my property.

Please explain your practical difficulty:

I am requesting this variance due to my property's proximity to the Mississippi River. The size and configuration of my property cannot accommodate the planned improved septic system, or any viable alternative without a variance to the current requirement of 125' setback from the river. When my house was built in 1960, these ordinances and setbacks from the river were not in place. The variance I am requesting is for 70' setback instead. This is all I have to work with since my house is located only 100' away from the river. This variance is needed to build an efficient and effective system that will provide greater protection for the river than the current one. A septic system similar to the mound system planned for my property already exists on another property two houses south of my property, and its presence is the only reasonable solution that allows my property to function while also fully protecting the Mississippi River.

Ann M. Gentry
9/5/16

Mississippi River



12606 W
Great River Rd.

Anna Leslie 9/5/16

Impervious Surface Calculation

This calculation sheet is a necessary attachment for all land use permit applications and variance applications in the shoreland zoning district. Because of the impact of storm water runoff, the Morrison County Zoning Ordinance limits the amount of impervious surface coverage. Impervious surfaces include constructed or other hard surface that either prevents or retards the entry of water into the soil and causes the water to run off the surface in greater quantities at an increased rate of flow. Examples include gravel, concrete, or asphalt rooftops, sidewalks, patios, driveways, parking areas, storage areas, or areas of hardscaping.

Lot Dimensions: 8099.74 ~~10000~~ Lot Sq.Ft. 18100 (see attached sheet for calculations)

Use the following Table to Calculate Total Impervious Surface Area:
 ** All structure dimensions must be measured from roof eaves**

Impervious Surface Item	Structure Dimensions	Total Area (ft ²)
Proposed or Existing House	40 X 25	1000
Proposed House Addition Pump House	3 X 4	12
Existing Garage(s) or Accessory Buildings	12.8 X 25	320
Proposed Garage or Accessory Buildings Shed	8 X 8.5	68
Boat House and/or Ramp	7 X 35	245
Sidewalk(s)	6 X 21	126
Patio (s) BLOCKS + cement Slab by walk out basement	5 X 16	80
Deck (s) door cement step at base of deck stairs	10 X 20.5 2.5 X 4	205 10
Driveway and Parking Area Including Gravel Surfaced Areas	24.8 X 70 12 X 25	1736 300
Other cement steps to River clothes line slab	3 X 11.3 2 X 2	33.9 4
Other 6" Round patio blocks outlining gardens on N, S & E side of house	.06 X 88	5.28
Other Run-off cement slab by NW drain spout	1.3 X 5	6.5
Total Impervious Surface		4151.68

$$\frac{4151.68}{18100} \times 100 = 22.94\%$$

Total impervious surface total lot sq. ft. percent impervious surface

I certify that the above information is true and accurate to the best of my knowledge and that I have included all existing or proposed impervious surfaces on my property. I understand that if the percentage of total impervious surface is greater than the allowance, a variance will be required as part of my application.

Signature of Applicant *Anna M. Serli*

Date 9/5/16

Attach additional sheet as necessary



09/30/2016



09/30/2016



09/30/2016

GREATER BEMIDJI JOINT PLANNING BOARD

Resolution No. 2016-15

RESOLUTION APPROVING VARIANCE FOR PARCEL 31.00959.00

WHEREAS, the "Joint Powers Agreement for The Provision of Planning and Zoning Services" in 2007, formed the Greater Bemidji Area Joint Planning Board (JPB) to administer and enforce planning and zoning for the area governed by these Local Governmental Units (LGU's); and

WHEREAS, an application was made on March 31, 2016 by Jason & Angela Caron requesting a variance in order construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback; and

WHEREAS, the proposed requested variance will be located on parcel 31.00959.00, legally described as Sect-28 Twp-147 Range-033 AUDITOR'S PLAT NO 13 Lot-006 2.46 AC A PORTION OF LOT 6 DESC AS FOLLOWS: BEG AT SW CORNER OF LOT 6 THENCE N4°25'E - 74.51' TO IM THENCE AT A DEFLECTION ANGLE TO RIGHT OF 88°31'35" LINE BEARING 88°36" E - 351.3' TO IM T (see also attached Warranty Deed); and

WHEREAS, the Property is zoned R-3 (Suburban Residential); and

WHEREAS, the requested variance meets all requirements, standards and specifications of the Greater Bemidji Area Zoning and Subdivision Ordinance; and

WHEREAS, the Joint Planning Commission held a public hearing on April 28, 2016, to review the application for a Variance following mailed and published noticed as required by law; and

Page 1 of 3

WHEREAS, the Greater Bemidji Area Joint Planning Board has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval; and

WHEREAS, the Planning Board has made the following findings regarding the Variance application request:

1. **The property owner proposes to use the property in a reasonable manner not permitted by the Zoning and Subdivision Ordinance;**
The subject parcel is zoned R3 Suburban Residential. A single family home is a reasonable use of the property. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.
2. **The plight of the landowner is due to circumstances unique to the property not created by the landowner;**
The lot is vacant, but the slope of the property is not dramatic enough to be a bluff. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore this is not created by the landowner.
3. **The variance, if granted, will not alter the essential character of the locality;**
There are other encroachments into the bluff on adjoining lots.
4. **Economic considerations alone do not constitute practical difficulties.**
Economic considerations were not reviewed with this project. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.

NOW, THEREFORE BE IT RESOLVED that the Joint Planning Board hereby grants the requests for the variance in order construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback, with the following conditions:

1. A full erosion control plan will be designed by a licensed engineer.
2. A full engineered plan indicating the geotechnical characteristics of this slope will not be negatively altered by this construction.
3. No "driveway" or other type of access will be allowed to be between or adjacent to the house and the OHW.
4. A reclamation plan will be provided for the existing cut into the bluff.
5. All other setbacks will be identified in a land use permit.

6. No other setbacks have been proposed to be encroached on and will not be allowed (side yard or OHW).

7. A land use permit will be applied for if there is a proposal for steps and landings are proposed down to the shore

GREATER BEMIDJI AREA JOINT PLANNING BOARD

State of Minnesota

County of Beltrami

This instrument was acknowledged before me on this 11th day of May, 2016 by Reed Olson, Joint Planning Board Chair.

Reed Olson, Joint Planning Board Chair

Subscribed and sworn to before me
this 11th day of May, 2016.

Notary Public

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

April 28, 2016 City Hall

6:00 p.m. Council Chambers

CALL TO ORDER: Chair, Jess Frenzel called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:09 p.m. Roll call was taken and the pledge of allegiance was recited

MEMBERS PRESENT: Berg, Steffen, Frenzel, Lemmer, Smith

MEMBERS ABSENT: Kramka, David, Miller

STAFF PRESENT: Josh Stearns, Terri Ball

OTHERS: Kyle Freier, Brian Freeberg, Becky Secore, Kathleen Hammer, Bob Whelan, Dan Duent, Jim Golden, Steve Trudeau, Cindy Haley, Tom Sunnenberg, Jun & Mark Moberg, Paul Muller, Emily Nordstrom, Timothy Puoret, Doug Fuller, Kurt Wayne, Jeff Lind, Ben Jann Van Wert, Robert Smith, Tyrell Perrault, Meghan Hill, Sandy Hennum, Rick Klun, Bill Burn, Phil Hodapp, Jeff & Sherri Janiksela, Amber Adkins, Jan Haley, Wendy Daley, Tim Flathers, Chris Hamilton, Matt Murray, Jason Caron, Nate Mathews, Kate Lawrence, Melissa Singleton, Kelly King, Berry Fairbanks, Dee Sweeney, Muruia Van Wert.

APPROVAL OF AGENDA:

Motion by Lemmer, second by Steffen, to approve the amended Agenda to read “CUP-16-80.03039.00.”

Motion carried unanimously

APPROVAL OF MINUTES:

Motion by Steffen, second by Berg, to approve minutes from the March 24, 2016 Greater Bemidji Area Regular Joint Planning Commission as written.

Motion carried unanimously

Stearns presented the fourth case as follows:

PLANNING CASE – V – 16-31.00959.00 – Jason & Angela Caron

Applicants are requesting a variance in order to construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback.

BACKGROUND

The applicant owns the subject parcel. Staff has spent a significant amount of time discussing with the applicant, the realtor and the surveyors why this area constitutes a bluff and is required to receive a variance if any construction of this nature is to occur on this site. Several items are of serious concern to the JPB staff:

1. This bluff has been compromised prior the the applicants applying for a bluff variance. The pictures attached will show that a cut was made into the bluff in order to allow access to the shoreland.
2. There has been a lot of “discussion” on if this constitutes a bluff by comparing many different definitions by the applicant’s surveyor. Yet, this is within the Mississippi Headwaters area and the definition by this board specifically makes this area a bluff. Therefore the GBA can be no less strict even though the zoning code’s definition seems to have a certain level of interpretation.
3. The description by the applicant that the surrounding property owners all have walk out basements is not a reason to grant this variance. This is a stand alone property that must be based on the merits as they exist here.

Planning Considerations

JPB Zoning Code definition of a bluff.

BLUFF: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- a. Part or all of the feature is located within a shoreland area;
- b. The slope rises at least 25 feet above the ordinary high water level of the water body;
- c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater;
- d. The slope drains toward the water body.

MHB definition of a bluff.

A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

1. The slope rises at least 25 feet above the ordinary high water level of the water body for riparian lots or 25 feet above the toe of the bluff for nonriparian lots.
2. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level for riparian lots or 25 feet above the toe of the bluff for non-riparian lots averages 30 percent or greater;
3. The slope must drain toward the waterbody.
4. Part or all of the feature is located in a shoreland area.

What is a bluff?

It is a slope in the "shoreland area".

It is a slope that is draining towards a waterbody.

It is a slope that raised at least 25 higher than the ordinary high water level.

It is a slope that the "rise over the run" for a distance of 25 or more is equal to or greater than 30%

The elevation at the water is 1340. The top of the bluff is 1370. The difference between the two elevations is 30 feet. This is a "slope" that rises at least 25 higher than the ordinary high water level.

Within the area that constitutes the toe and top of the bluff has a slope average (described by the survey) of 29%-33%

So this qualifies as a bluff.

What can occur in the bluff impact zone?

1. Definitely "not" the giant cut that has already been put in the hill.

2. Section 907. Bluff Impact Zones. No structures, with the exception of stairways, lifts and landings, may be placed within bluff impact zones. All structures must be set back at least thirty (30) feet from the top of a bluff. Walkout basements shall not be allowed in bluff impact zones.

The extremely confusing definition in the GBA code is what constitutes the "toe" of the bluff: BLUFF, TOE OF: The lower end of a 50 foot segment, measured on the ground, with an average slope exceeding eighteen (18%) percent.

The report provided by the surveyor shows their determination of the variety of definitions, yet staff still continues to interpret this as a bluff.

Sanitary and water services

The property will be served by City Services.

Neighbor input

At the time of this writing, staff has received no input from neighbors or the general public concerning the applicant's requests.

RECOMMENDATION

Staff cannot recommend approval of a property that proposes to cut into the bluff. This is far greater than encroaching on the setback. There are no specific standards in the code that allow this type of approval of the variance. The property is large and the house could easily meet the setback as it is provided.

Yet, the survey work provided a wide variety of interpretations of the definition.

Because of that staff if providing two (2) sets of potential sets of findings and recommendations. The JPB will need to discuss this case with the applicant and their representatives at the JPB meeting to determine if there is merit to the request.

GREATER BEMIDJI AREA JOINT PLANNING BOARD

Meeting Minutes

May 11, 2016

Pursuant to due call and notice a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, May 11, 2016, at 6:00 p.m. in City Hall. Chair Olson presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Albrecht, Kelly, Olson, Erickson, Larson (alternate). Mountain (6:05)

Members absent: Heuer, Merschman, Johnson (utilized alternate)

Staff present: Josh Stearns, Cory Boushee, Terri Ball

Others in attendance: Vicky Stadther, Allan Reini, Brian Freeberg, Mark Moberg, Kyle Freier, Bob Whelan, Casey & Allison Mai, Tim Flathers, Doug Fuller, Jason Caron, Amber Neumann, Keni Johnson, Nate Mathews, Sandy Hennum

Pledge of Allegiance was performed.

RESOLUTION NO. 2016-15- V-16-31.00959.00 – JASON & ANGELA CARON

Applicant are requesting a variance in order to construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback.

BACKGROUND

The applicant owns the subject parcel. Staff has spent a significant amount of time discussing with the applicant, the realtor and the surveyors why this area constitutes a bluff and is required to receive a variance if any construction of this nature is to occur on this site. Several items are of serious concern to the JPB staff:

1. This bluff has been compromised prior the applicants applying for a bluff variance. The pictures attached will show that a cut was made into the bluff in order to allow access to the shoreland.
2. There has been a lot of “discussion” on if this constitutes a bluff by comparing many different definitions by the applicant’s surveyor. Yet, this is within the Mississippi Headwaters area and the definition by this board specifically makes this area a bluff. Therefore the GBA can be no less strict even though the zoning code’s definition seems to have a certain level of interpretation.
3. The description by the applicant that the surrounding property owners all have walk out basements is not a reason to grant this variance. This is a stand alone property that must be based on the merits as they exist here.

PLANNING CONSIDERATIONS

What can occur in the bluff impact zone?

1. Definitely “not” the giant cut that has already been put in the hill.
2. Section 907. Bluff Impact Zones. No structures, with the exception of stairways, lifts and landings, may be placed within bluff impact zones. All

structures must be set back at least thirty (30) feet from the top of a bluff. Walkout basements shall not be allowed in bluff impact zones.

The extremely confusing definition in the GBA code is what constitutes the “toe” of the bluff: BLUFF, TOE OF: The lower end of a 50 foot segment, measured on the ground, with an average slope exceeding eighteen (18%) percent.

The report provided by the surveyor shows their determination of the variety of definitions, yet staff still continues to interpret this as a bluff.

Sanitary and water services

The property will be served by City Services.

Neighbor input

At the time of this writing, staff has received no input from neighbors or the general public concerning the applicant’s requests.

RECOMMENDATION

JPB Attorney, Troy Gilcrest, recommended if the Joint Planning Board cannot agree on bluff definition they could extend the applicant’s 60 day rule and hire an independent surveyor to review this project. JPB members did not favor this option.

Staff cannot recommend approval of a property that proposes to cut into the bluff. This is far greater than encroaching on the setback. There are no specific standards in the code that allow this type of approval of the variance. The property is large and the house could easily meet the setback as it is provided.

Board members had the following concerns:

- Kelly respects staff’s work, but also thinks extending 60 day rule is unfair to applicant.
- Albrecht questioned instability of slope, and if soil borings were taken. Mountain asked neighbors had problems with erosion. Staff was not aware of any borings nor any erosion concerns.
- Mountain asked what made the cut into the hillside, and how long ago it occurred. Staff unsure, but Kelly stated it to be 15-20 years ago. Kelly further directed attention to the matter of the variance.
- Erickson confirmed with staff that conversations with the Mississippi Headwater Board and Department of Natural Resources were for an advisory capacity, not for regulative authority.
- Albrecht questioned if home to be built within the OHW. Staff said it will not, and does meet standards. Albrecht also asked about location of home, as no site plans were provided. Staff described approximate location as in between slope profiles.
- Mountain asked if all the rest of the bluff is developed, which staff confirmed it is.
- Applicant was asked if home is planned behind the 100 yard setback. Yes, it will, which is a requirement. Further discussion between board members and applicant about neighbors’ experience with erosion.
- Albrecht stated a greater concern with violating a shoreland setback.

- Olson stated that if the MHB and staff think this parcel contains a bluff, then JPB should listen. Definitions are debatable.
- Kelly commented that the findings of fact are typical of other parcels and agrees with staff's work. Albrecht sought clarification of a practical difficulty. Kelly stated applicant is not able to use his land as his neighbors do.
- Larson commented that this is the last lot available to be developed and it should be allowed, as it is a consistent use.

Motion by Kelly, second by Mountain to approve Resolution No. 2016-15 allowing a variance to construct a single-family house within the bluff setback of parcel 31.00959.00 with conditions:

1. A full erosion control plan will be designed by a licensed engineer.
2. A full engineered plan indicating the geotechnical characteristics of this slope will not be negatively altered by this construction.
3. No "driveway" or other type of access will be allowed to be between or adjacent to the house and the OHW.
4. A reclamation plan will be provided for the existing cut into the bluff.
5. All other setbacks will be identified in a land use permit.
6. No other setbacks have been proposed to be encroached on and will not be allowed (side yard or OHW).
7. A land use permit will be applied for if there is a proposal for steps and landings are proposed down to the shore

And with findings:

1. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning and Subdivision Ordinance;

The subject parcel is zoned R3 Suburban Residential. A single family home is a reasonable use of the property. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;

The lot is vacant, but the slope of the property is not dramatic enough to be a bluff. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore this is not created by the landowner.

3. The variance, if granted, will not alter the essential character of the locality;

There are other encroachments into the bluff on adjoining lots.

4. Economic considerations alone do not constitute practical difficulties.

Economic considerations were not reviewed with this project. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.

Roll call vote:

Ayes: Larson (alternate), Erickson, Olson, Mountain, Kelly

Nays: Albrecht

Abstain: None

Absent: Heuer, Johnson (utilized alternate), Merschman
Motion carried.

Chair Olson called for a recess at 8:05 p.m.

Meeting resumed by Chair Olson at 8:15 p.m.



* A 0 0 0 5 5 5 8 7 0 4 *

OFFICE OF COUNTY RECORDER

COUNTY OF BELTRAMI, MINNESOTA

THIS IS TO CERTIFY

THAT THIS INSTRUMENT

HAS FILED IN THIS

OFFICE ON 05/18/2016 AT

01:46:42PM BY DOCUMENT NUMBER

A000555870

Charlene D. Sturk DEPUTY

CHARLENE D. STURK

COUNTY RECORDER

PAGES: 4

GREATER BEMIDJI JOINT PLANNING BOARD

Resolution No. 2016-15

RESOLUTION APPROVING VARIANCE FOR PARCEL 31.00959.00

WHEREAS, the “Joint Powers Agreement for The Provision of Planning and Zoning Services” in 2007, formed the Greater Bemidji Area Joint Planning Board (JPB) to administer and enforce planning and zoning for the area governed by these Local Governmental Units (LGU’s); and

WHEREAS, an application was made on March 31, 2016 by Jason & Angela Caron requesting a variance in order construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback; and

WHEREAS, the proposed requested variance will be located on parcel 31.00959.00, legally described as Sect-28 Twp-147 Range-033 AUDITOR'S PLAT NO 13 Lot-006 2.46 AC A PORTION OF LOT 6 DESC AS FOLLOWS: BEG AT SW CORNER OF LOT 6 THENCE N4'25"E - 74.51' TO IM THENCE AT A DEFLECTION ANGLE TO RIGHT OF 88*31'35" LINE BEARING 88*36" E - 351.3' TO IM T (see also attached Warranty Deed); and

WHEREAS, the Property is zoned R-3 (Suburban Residential); and

WHEREAS, the requested variance meets all requirements, standards and specifications of the Greater Bemidji Area Zoning and Subdivision Ordinance; and

WHEREAS, the Joint Planning Commission held a public hearing on April 28, 2016, to review the application for a Variance following mailed and published noticed as required by law; and

WHEREAS, the Greater Bemidji Area Joint Planning Board has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval; and

WHEREAS, the Planning Board has made the following findings regarding the Variance application request:

- 1. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning and Subdivision Ordinance;**
The subject parcel is zoned R3 Suburban Residential. A single family home is a reasonable use of the property. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.
- 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;**
The lot is vacant, but the slope of the property is not dramatic enough to be a bluff. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore this is not created by the landowner.
- 3. The variance, if granted, will not alter the essential character of the locality;**
There are other encroachments into the bluff on adjoining lots.
- 4. Economic considerations alone do not constitute practical difficulties.**
Economic considerations were not reviewed with this project. The JPB has determined that the definition of a bluff is ambiguous and this slope does not qualify as a bluff for the JPB. Therefore the walkout basement is a reasonable use of the property.

NOW, THEREFORE BE IT RESOLVED that the Joint Planning Board hereby grants the requests for the variance in order construct a single-family house, located at 5800 Birchmont in the R3 Residential District of Northern Township, within the bluff setback, with the following conditions:

1. A full erosion control plan will be designed by a licensed engineer.
2. A full engineered plan indicating the geotechnical characteristics of this slope will not be negatively altered by this construction.
3. No "driveway" or other type of access will be allowed to be between or adjacent to the house and the OHW.
4. A reclamation plan will be provided for the existing cut into the bluff.
5. All other setbacks will be identified in a land use permit.

6. No other setbacks have been proposed to be encroached on and will not be allowed (side yard or OHW).

7. A land use permit will be applied for if there is a proposal for steps and landings are proposed down to the shore

GREATER BEMIDJI AREA JOINT PLANNING BOARD

State of Minnesota

County of Beltrami

This instrument was acknowledged before me on this 11th day of May, 2016 by Reed Olson, Joint Planning Board Chair.



Reed Olson, Joint Planning Board Chair

Subscribed and sworn to before me
this 11th day of May, 2016.



Notary Public



No delinquent taxes and transfer entered;
 Certificate of Real Estate Value
 () filed () not required
 Certificate of Real Estate Value No. 17447
August 27, 2008
 KAY L MACK AUDITOR-TREASURER
 Beltrami County Auditor-Treasurer
 by [Signature]
31.00 959.00 Deputy

OFFICE OF COUNTY RECORDER
 COUNTY OF BELTRAMI, MINNESOTA

THIS IS TO CERTIFY
 THAT THIS INSTRUMENT
 WAS FILED IN THIS
 OFFICE ON 08/28/2008 AT
 09:15:37AM BY DOCUMENT NUMBER

A000486604
[Signature] DEPUTY

CHARLENE D. STURK
 COUNTY RECORDER

PAGES: 1

WARRANTY DEED
 Individual to Joint Tenants

STATE DEED TAX DUE HEREON: \$1,237.50

Date: July 25, 2008

FOR VALUABLE CONSIDERATION, PAUL D. EGGEBRAATEN and DIANE M. EGGEBRAATEN, TRUSTEES OF THE PAUL D. EGGEBRAATEN AND DIANE M. EGGEBRAATEN REVOCABLE LIVING TRUST, U/A/D NOVEMBER 1, 2004, Grantor, hereby conveys and warrants to JASON J. CARON and ANGELA M. CARON, husband and wife, Grantees, as joint tenants, real property in Beltrami County, Minnesota, described as follows:

That part of Lot Six (6), Auditor's Plat No. 13, described as follows: Beginning at the southwest corner of said Lot 6; thence running North 0°04'25" East along the West boundary of said Lot 6 for a distance of 74.51 feet; thence running North 88°36' East for a distance of 351.3 feet to an iron monument; thence running North 63°58' East for a distance of 193.6 feet to an iron monument; thence continuing on the same course North 63°58' East to the water's edge of Lake Bemidji; thence running southerly and southeasterly along the water's edge of Lake Bemidji to the southeast corner of said Lot 6; thence running westerly along the southerly boundary of said Lot 6 to the southwest corner of said Lot 6 and the place of beginning;

together with all hereditaments and appurtenances belonging thereto, and subject to any prior conveyances of minerals or mineral rights, any prior reservations, restrictions, easements, rights of way and any zoning and use regulations, and subject also to the lien of any unpaid special assessments and interest thereon.

Check if applicable:

- Grantor certifies that Grantor does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document.
- Grantor is familiar with the property described in this instrument and certifies that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Beltrami County, MN
 Deed Tax Paid 1237.50
 Deed Tax Receipt No. 137042 jm

[Signature]
 Paul D. Eggebraaten, Trustee

[Signature]
 Diane M. Eggebraaten, Trustee

STATE OF MINNESOTA
 ss.
 COUNTY OF BELTRAMI

OFFICE OF COUNTY RECORDER
 BELTRAMI COUNTY, MN
 Well Certificate Received
 Well Certificate Not Required

The foregoing instrument was acknowledged before me this 25 day of July, 2008, by Paul D. Eggebraaten and Diane M. Eggebraaten, as Trustees of the PAUL D. EGGEBRAATEN and DIANE M. EGGEBRAATEN REVOCABLE LIVING TRUST, U/A/D NOVEMBER 1, 2004, Grantor.

STEVEN J. MOTZKO
 Notary Public Minnesota
 My Comm. Exp. 1-31-10

[Signature]
 Notary Public

THIS INSTRUMENT DRAFTED BY:
 DRAHOS KIESON & CHRISTOPHER, P.A.
 Attorneys at Law
 502 - 24th Street N.W.
 Bemidji, MN 56601
 (218) 444-1750

TAX STATEMENTS SHOULD BE SENT TO:
 Jason J. Caron and Angela M. Caron
 1675 Ford Parkway - 5810 BIRCHMOUND DR NE
 St. Paul, MN 55116-2138 Bemidji, MN 56601

SITE PLAN

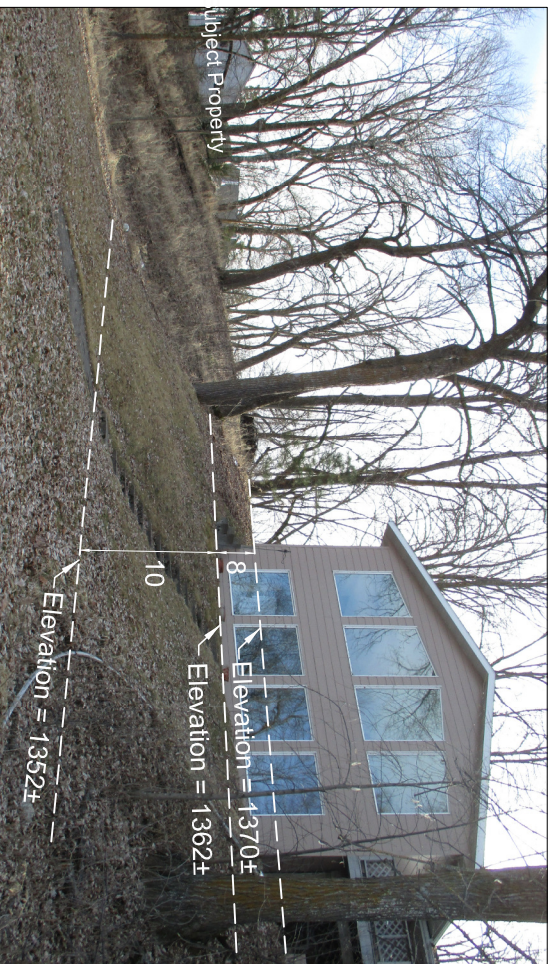
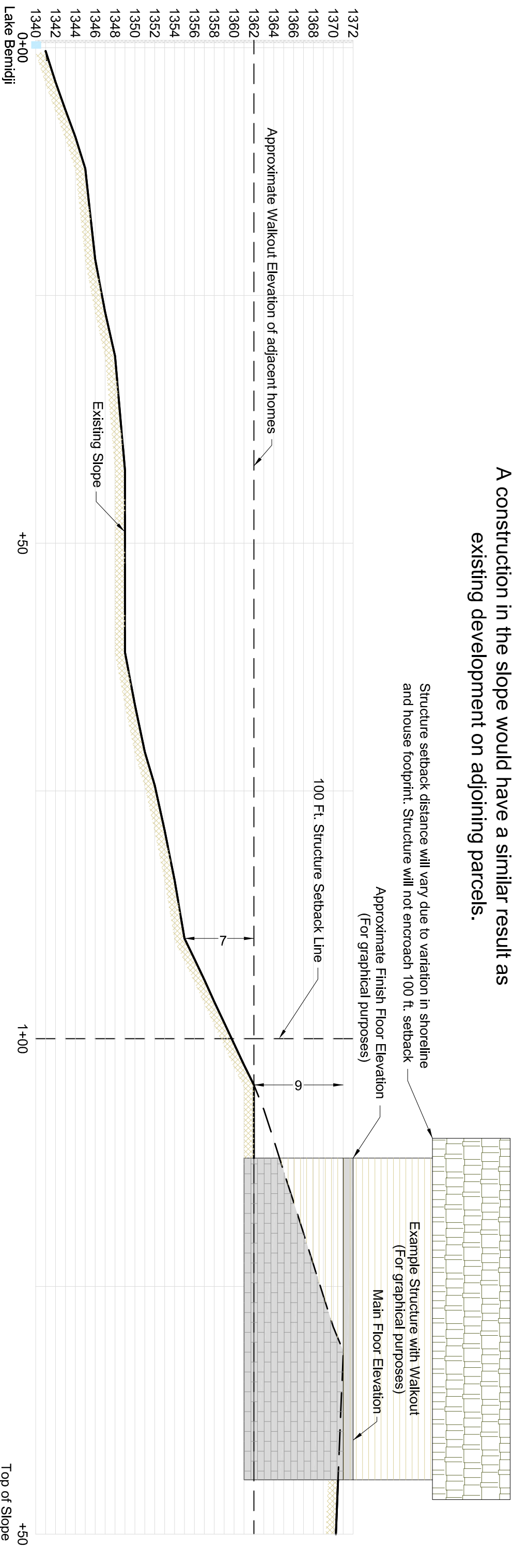
Application for Variance
Parcel No. 310095900

Parcel Address: 5800 Birchmont Dr NE

Applicant: Jason J. Caron and Angela M. Caron

**SIDE PROFILE IF
BLUFF VARIANCE IS
GRANTED**

A construction in the slope would have a similar result as existing development on adjoining parcels.



I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

MATT LAW R. MURRAY
DATE: 10-11-2016
LICENSE NO. 48168
FILE NO. 18-49

MURRAY
SURVEYING, INC.
218-751-5898
MURRAYSURVEYING.COM
MURRAY@PALMBURNVNET



View from subject property looking toward home on Parcel No. 3100996200



View from Parcel No. 310096200 looking toward subject property



Lake side of home on Parcel No. 310096200



Lake side of home on Parcel No. 310096200

SITE PLAN

Application for Variance
 Parcel No. 310095900
 Parcel Address: 5800 Birchmont Dr NE
 Applicant: Jason J. Caron and Angela M. Caron
 Parcel Area: 1.3 Acres

**DRAWING SHOWING:
 BUILDING ENVELOPE IF
 BLUFF VARIANCE NOT
 GRANTED**

DESCRIPTION OF PROPERTY

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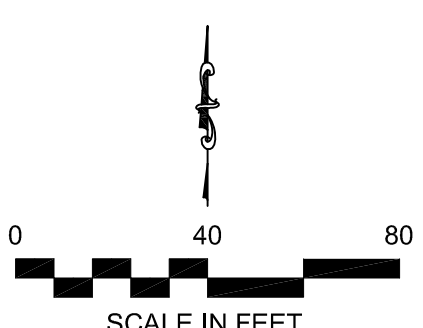
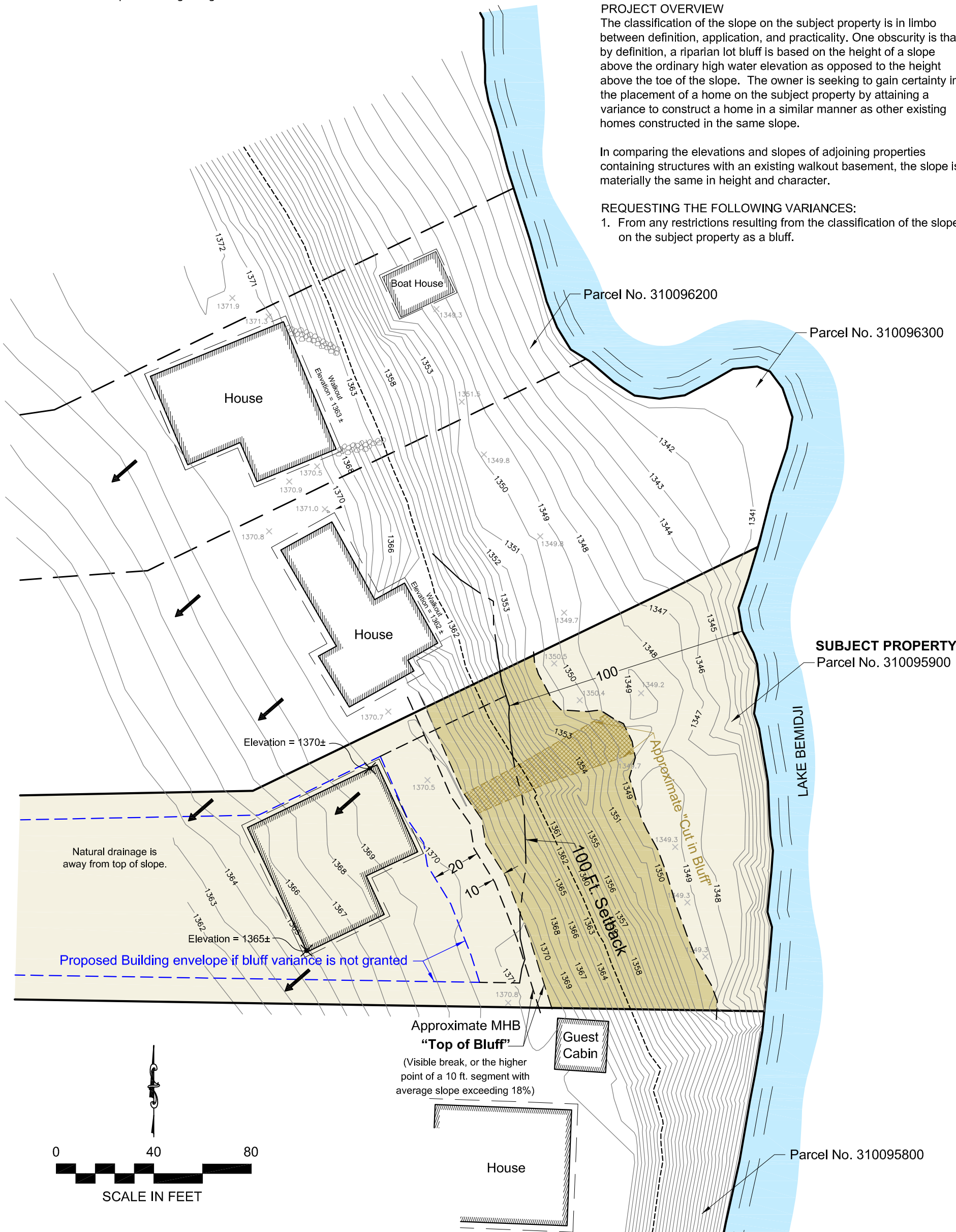
PROJECT OVERVIEW

The classification of the slope on the subject property is in limbo between definition, application, and practicality. One obscurity is that by definition, a riparian lot bluff is based on the height of a slope above the ordinary high water elevation as opposed to the height above the toe of the slope. The owner is seeking to gain certainty in the placement of a home on the subject property by attaining a variance to construct a home in a similar manner as other existing homes constructed in the same slope.

In comparing the elevations and slopes of adjoining properties containing structures with an existing walkout basement, the slope is materially the same in height and character.

REQUESTING THE FOLLOWING VARIANCES:

1. From any restrictions resulting from the classification of the slope on the subject property as a bluff.



I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

MURRAY SURVEYING, INC.
 P.O. BOX 1038 BEMIDJI, MN 56601
 218-751-5898
 MURRAYSURVEYING.COM
 MMURRAY@PAULBUNYAN.NET

MATTHEW R. MURRAY LICENSE NO. 48168
 DATE: 10-11-2016 FILE NO. 16-49

LEGEND

- Direction of natural drainage
- Existing 1 ft. contour interval
- × Existing spot elevation

SITE PLAN

Application for Variance
 Parcel No. 310095900
 Parcel Address: 5800 Birchmont Dr NE
 Applicant: Jason J. Caron and Angela M. Caron
 Parcel Area: 1.3 Acres

**DRAWING SHOWING:
 BUILDING ENVELOPE IF
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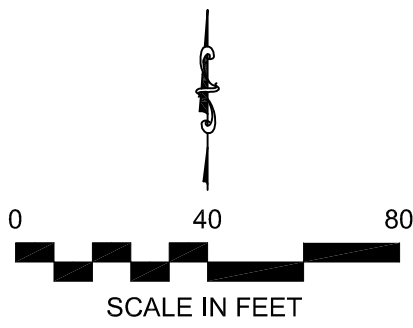
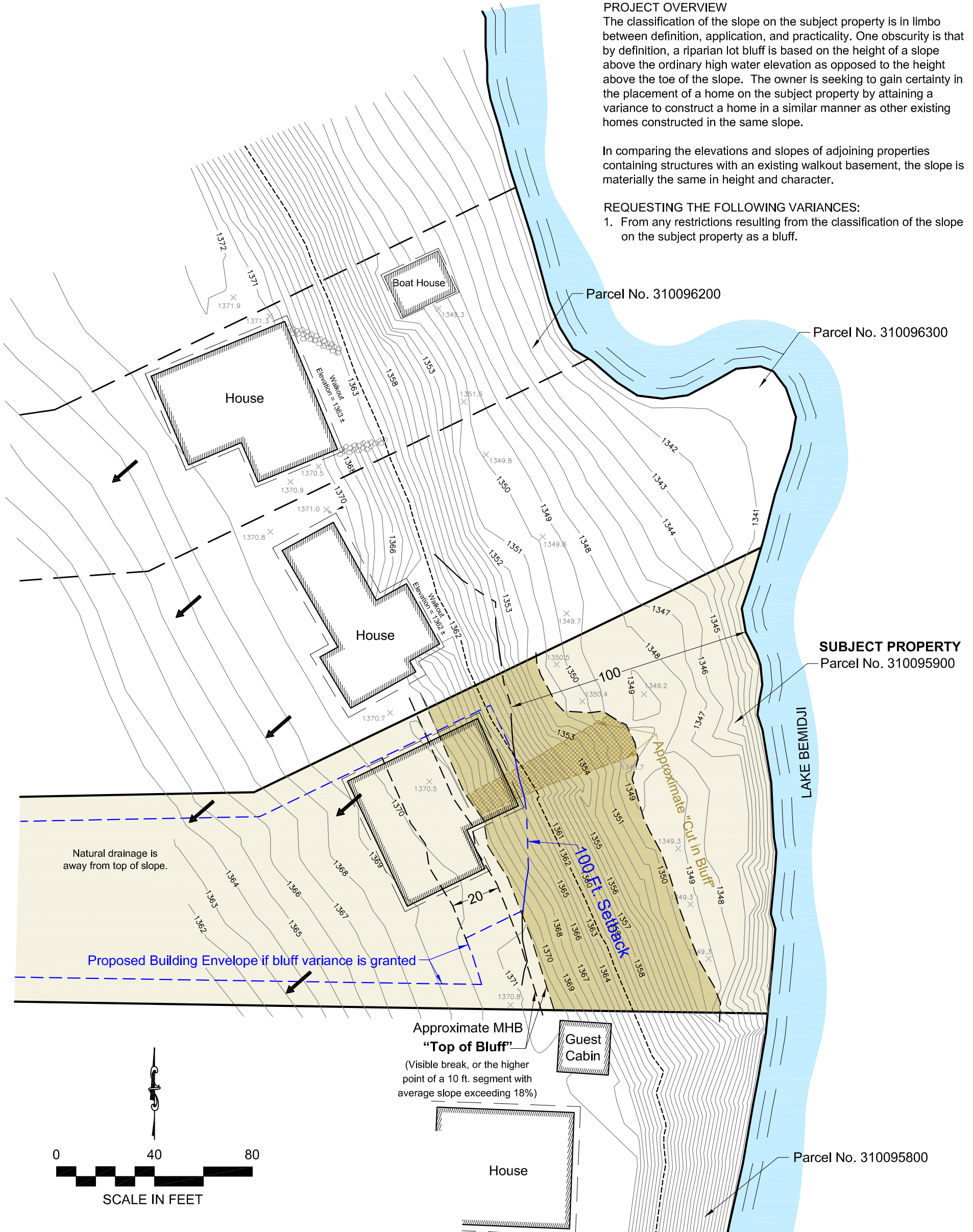
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 MMURRAY@PAULBUNYAN.NET

MATTHEW R. MURRAY LICENSE NO. 48168
 DATE: 03-31-16 FILE NO. 16-49

LEGEND

- Direction of natural drainage
- 1346 — Existing 1 ft. contour interval
- 1349.3 x Existing spot elevation

Jason and Angela Caron

5973 Tall Pines Rd NE

Bemidji, MN 56601

September 10, 2016

Mr. Tim Terrill
Mississippi Headwaters Board
Land Services Building
322 Laurel Street
Brainerd, MN 56401

Sent Via Email: timt@mississippiheadwaters.org

Re: Additional materials related to Caron Variance Application

Dear Tim:

Enclosed please the following additional items related to the variance application for my property on Lake Bemidji:

1. Greater Bemidji Area Joint Planning Board Resolution granting variance for construction of walkout basement within the portion of the slope meeting the definition of a bluff.
2. Site Plans showing the location of proposed building envelope in relationship to the lake.
3. A side profile of the building envelope.

Background Information: Greater Bemidji Area Joint Planning Board (JPB) Approval

The Joint Planning Board Planning Commission and the Joint Planning Board was able to consider in its entirety the application outlining practical difficulty, and the factors felt to be beneficial to building within the area requested in the variance. These factors led to a unanimous recommendation for approval by the Planning Commission and led to approval by the Joint Planning Board to grant the variance.

One of the reasons that the application material received from the JPB was confusing was that, due to a recent lawsuit involving the JPB, the JPB attorney recommended that JPB staff prepare

both an application for approval and an application for denial for all of its cases. This way, regardless of the decision of the board, there would be a resolution containing the appropriate findings, which were then be read into the record. I believe the case was initially presented to the MHB by JPB staff in a convoluted way during a time between planning directors, with an inexperienced assistant. The minutes serve to clarify the position of the JPB.

The minutes of the JPB clearly outline:

1. The parcel meets the MHB definition of a bluff
2. They felt that a practical difficulty existed
3. They recommended granting of a variance with several conditions

Review: First MHB hearing considering Variance

I did not attend the first hearing because, in speaking with the JPB, I was given the impression that it was unnecessary. I was told that there had never been a JPB variance approval that had not been certified by the MHB and that typically the landowner was not in attendance. In retrospect, I should have attended. I meant no disrespect by it.

On his own accord, Matt Murray of Murray Surveying attended because he felt that the MHB definition of a riparian lot did not take into account the relationship of the toe of the slope to peak of the slope, but rather relies solely on the high water mark. His concern was that in certain situations, such as this, it makes a bluff out of a slope that would not be considered a bluff in on a non-riparian lot. Although it does have implications for this variance request, much of the conversation would have been more appropriate for an ordinance meeting.

Second MHB hearing considering Variance

At the second meeting, I shared with you how I purchased the property with no knowledge that the slope may constitute a bluff. I lived in the neighboring house, a walkout built in the 1970's with no issues with erosion. As demonstrated by my neighbors testimony at the public hearing held by the JPB, despite living in a walkout home within the same slope for the past 30 years, he also had no indication that the slope may be restricted. He had built two homes there, the second in the late 90's after a fire destroyed his first home. He relayed his experience that no issues with erosion existed over these 30 years. Given previous on-site discussions with builders and a conversation with a former JPB staff member, the idea that the slope could be a bluff had never been mentioned. We also discussed that it was not until a purchase agreement was signed, and the purchaser met with the JPB that a potential concern was raised. We also discussed the factors below.

Upcoming October 2016 MHB hearing considering Variance Certification

Below are the factors that the JPB and I feel constitute a practical difficulty and potential benefits to building within the envelope granted by the variance:

1. By building where we have proposed, and in keeping with neighboring properties, the walkout and landscaping would eliminate the 20+ year old access trail. Although there have been no signs of erosion on the trail, the condition of the variance would serve to eliminate the trail.
2. The natural opening of the lot is at the proposed building site which substantially reduces the need for removal of mature trees, which would be necessary if the building was moved further back toward the road.
3. The highest relative elevation of the lot is at the top of the slope, with the height of the slope declining both lakeward and landward. Because of these factors, locating the structure at the 20 foot setback from the top of bluff restricts any view of the shoreline, including a dock and boat.
4. Also as a result of the aforementioned characteristics of the land, using the width/depth of the adjoining homes as objective criteria, because land slopes back away from the lake in the manner that it does, if the front of the house (lakeside) was positioned at the 20 foot setback, the ground at the rear of the house is approximately five to six feet lower than the ground at the front of the house. Because the slope continues to slope landward, and because increasing the setback from the lake would only make the condition worse, bringing in fill to level a pad would not be a possibility as it would result in the slope of the driveway becoming impractically steep. The front of the home would need to be depressed into the ground which would further worsen visibility of the lake.
5. By allowing the structure to be located near the 100 foot setback from the lake, the structure can be better positioned in accordance with the natural topography of the property. Like adjacent homes, building in the slope would allow the structure to be positioned at just the right height to permit the ground floor to be level with the ground at the back of the house without compromising the height relative to the ground at the front of the structure.
6. Building at the 100 foot setback will preserve the character of the area by enabling a structure to be located at a setback in harmony with adjacent homes. Some jurisdictions refer to this as a string line test; however, in this instance, the test would not result in any encroachment within the structure setback from the ordinary high water. Alternatively, the location of the 20 foot setback from the top of bluff would locate the front of the home at the rear of the nearest adjacent home. My neighbor's testimony at the public hearing corroborates this desire from adjacent owners.
7. Because the slope drains landward, there is no concern about construction practices subjecting the slope to increased runoff and will not increase the likelihood of erosion.
8. Lastly, in addition to providing greater long run protection to the slope and overcoming the practical difficulties associated with the slope, given the conditions placed on the variance by the JPB, both the JPB and MHB can be assured that there will be no negative impact to the Lake. I would not propose this variance if I thought there would be. While

the circumstances of the topography works naturally to ensure this, three of the five conditions will further promote additional protection of resources:

- a. A full erosion control plan will be designed by a licensed engineer (Note: a licensed engineer has visited the site and a preliminary plan has been prepared).
- b. A full engineered plan indicating the geotechnical characteristics of the slope will not be negatively altered by this construction. (This involves a geotechnical company taking soil borings of the slope, conducting a geotechnical analysis of the soils, and reporting that the slope is suitable for the proposed construction).
- c. No “driveway” or other type of access will be allowed to be between or adjacent to the house and the OHW.

I appreciate your time and patience associated with this application.

Sincerely,

Jason J. Caron

Attachment 4

Executive Directors Report

Executive Director Report

August-September 2016

Personnel, Budget, Administration, Information & Education, Correspondence

1. Reviewed over monthly budget.
2. Prepared monthly agenda packet.
3. Sent in monthly expense report.
4. Reviewed over potential variances that may be coming before the Board next month.
5. Attended weekly call in meeting with MPCA.
6. Changed Sept. 2017 MHB Board meeting to another date so that it would not conflict with the AMC Policy Committee meeting date.
7. Developed an amendment to the Initiative Foundation grant.
8. Received call from Greg Tuttle (city of Cohasset) to present to them about how the MHB does zoning. They are rewriting their Comprehensive Plan and would like our input.
9. Sent in final report to Enbridge Ecofootprint grant.
10. The Riverton city council is exploring the option of a buffer on Little Rabbit Lake based of the MHB stormwater study.
11. Updated and submitted LSOHC Accomplishment Plan for \$2,396,000.
12. Sent letter out to Gov. Dayton and Lieutenant Gov. Smith requesting a conference.

Meetings & Networking

1. Attended annual DNR Pass-Through grant training webinar which provided training on LSOHC administration, contracting, and forms.
2. Attended MPCA webinar about the Miss. River Headwaters Watershed to look at different scenarios
3. Met with Chris Pence, Crow Wing ESD to discuss process for MHB Comprehensive Management Plan update
4. Attended Miss. River Basin Panel meeting at Itasca State Park and provided them a local connection to what the MHB is doing to help prevent the spread of AIS.
5. Attended NCCR meeting and discussed work that the partners are doing to in the habitat world. We will be working with the CNF to discuss native vegetation planning on the Mississippi River from Cass Lake to Ball Club, MN.
6. Attended AIS Summit meeting and presented the MHB Awareness Campaign. I was able to talk with Peter Sorenson about Asian Carp, and Wildlife Forever about partnering on some efforts. Also talked with members of COLA's to discuss another partnering conversation.
7. Talked with Mark Johnson from LSOHC to look at options for a citizen appointee.

Action/Discussion (att. 5 & 6)

Comprehensive Management Plan Update Process
Private Forest Management Powerpoint

**MHB
COMPREHENSIVE
MANAGEMENT PLAN
PROCESS**

ROLES OF COMMITTEE

- ◉ Technical- Update the MHB zoning portion of the plan, consult on Management plan.
- ◉ Management Plan- update the NRCSH values of the plan, consult on Technical Plan.
- ◉ MHB Subcommittee- 3 or 4 members of the board to look at what we have so far.
- ◉ Regional Level Review- Comment on Plan
- ◉ MHB Board- Final review before approval at County level.

COMMITTEE MEMBERSHIP

- ◉ Technical Committee- 8 County P&Z or ESD's
- ◉ Management Plan Committee- field level
 - MPCA- Bonnie Finnelly-Scientific
 - DNR- Heather Baird-Natural
 - BWSR- Dan Steward-Natural
 - NGO- Todd Holman- Natural
 - Patrick Neuman- Historical
 - EX MN Tourism- Carol Altepeter/Carol Zoff-Recreational
 - LLBO Tribe member- Sam or Rich-Cultural
 - MFRC-Lindberg-Forestry Rep
 - Co. Land Commissioners
 - Soil & Water Conservation Districts

REGIONAL LEVEL REVIEW

- BWSR- Ryan Hughes
- MPCA- Reed Larson
- DNR- Lori Dowling-Hanson/Rita Albright
- State Historical Preservation Office- David Mathers
- MN DOHealth- Amber Dallman
- USFWS- Steve Karels
- CNF- Jeff Gries
- Extension- Susan Heinrichs
- North Central Conservation Roundtable
- USACOE- Rob Maroney
- Nat. Park Service- Randy Thoreson/ Lark Weller
- Great River Road- Carol Zoff
- Dept. of Ag-

PUBLIC REVIEW

- Principle #1- Civic Engagement
- Principle #2- Ask for the public values.
 - Hold meetings in Baxter, Grand Rapids, and Bemidji.
 - Develop survey and utilize Survey Monkey.

Components in Comprehensive Plan Structure

