

**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, August 27, 2012  
County Administration Building  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present:     Ralph Morris  
                              Ray Dalby  
                              Doug Underthun  
                              Don Hazeman  
                              Ed Fussy  
                              County Commissioner, Jack Frost

Members absent:     Michael Haws

Others Present:     William Patnaude, Beltrami County Environmental Services Director  
                              Warren & Cynthia Jensen, 4556 Homestead Circle, Grand Forks, ND 58201

Acting Chairman, Don Hazeman, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for August 27, 2012, officially to order at 6:00 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman, Hazeman asked Board Members to introduce themselves. Beltrami County Environmental Services Director, William Patnaude, gave a brief overview of the meeting process.

**Board of Adjustment**

**OLD BUSINESS:**

Meeting minutes for the November 14, 2011 Meeting. Board members indicated they had not an opportunity to review those meeting minutes and would do so and get back to Mr. Patnaude with any changes or corrections. With that the Chairman stated he was prepared to move to the next item on the agenda.

**NEW BUSINESS:**

**Proposed Variance Request:**     **Warren & Cynthia Jensen**  
                                                      27332 Paws Path Lane  
                                                      Cass Lake, MN 56633  
  
Township:                                 Brook Lake  
Body of Water:                         Cass (4-30)

**The purpose of:**

Obtaining a Variance Permit to construct an addition onto a non-conforming structure which originally had been constructed as a cabin for Chippewa Paws Resort. This cabin was sold in 1960 and has since been privately owned. The non-conforming structure is approximately 41 feet from the ordinary high water mark of Cass Lake. The proposed addition, 30' x 49' is to be constructed onto the rear of the non-conforming structure. The closest setback for the new addition to the ordinary high water mark of Cass Lake is approximately 69 feet. Cass Lake is classified as a General Development Lake and under the jurisdiction of the Mississippi Headwaters Management Plan. The required setback for new structures is 100 feet from the ordinary high water mark. This variance must be reviewed and certified by the Mississippi Headwaters Board in order for it to become valid.

**Legal Description:**

Tax Parcel 08.00171.00

Part of Government Lot Two (2), Section Sixteen (16), Township One Hundred Forty-six (146) North, Range Thirty (30) West. This is a partial legal description. Full legal description on file in the Beltrami County Environmental Services Department.

Warren Jensen came forward and introduced himself and his wife, Cynthia, and indicated they had been the property owners of the tax parcel 08.00171.00 since 1997. They had purchased the property from Mr. Thatcher. Warren stated the cottage on their property had originally been a cottage for the resort, Chippewa Paws Resort, adjacent to them and that the parcel 08.00171.00 had actually been divided and created in 1960. All three buildings present on the property were constructed prior to Beltrami County's enactment of the Shoreland Management Program back in 1971. Warren indicated he and his wife had been working with an architect to lay out a plan for expanding the square footage of their property. He indicated since 1997 his children had married and he now has grandchildren. With three additional families there is need of additional space and the cabin does not warrant that anymore.

Ralph Morris indicated that during the Work Session prior to the Public Hearing, Board Members had reviewed the Jensen's request and had some questions. He wanted to explain there is a policy for roof height and at a 100 foot setback from Cass Lake, the maximum roof height would be 35 feet. At half of that setback, the roof height starts to go progressively down and would be at 18 feet.

Board of Adjustment Member, Ralph Morris, asked Mr. Jensen if he would be able to live with a roof height of 18 feet. Mr. Jensen indicated he wanted to get a 10/12 pitch and wanted to know where you would measure from since the ground is uneven. Board Member, Ralph Morris, asked Mr. Patnaude to clarify. Mr. Patnaude stated that you would average out along side of the structure as to where the 18 feet would be.

Board of Adjustment Member, Doug Underthun, asked to be recognized. Doug Underthun stated he had been reviewing the request and he could not in good faith see where there is a hardship in regard to the Jensen's request. He felt he could support it if the cabin was removed and a new structure was built at the setback line of approximately 69 feet of the ordinary high water mark of Cass Lake.

Board of Adjustment Member, Ed Fussy, asked to be recognized. Chair recognized Board Member Fussy. Mr. Fussy asked if they had a contractor look at the footings and to review them to see if they are going to be sufficient enough to take the new roof. Mr. Jensen responded saying he had his contractor, Doug Ferrier, out to review the footings and his contractor was okay with the present footings. Furthermore that there had been some work done on the foundation ten years ago by Neil Ramsey which was to help shore up the cottage.

Board Member, Ralph Morris, asked Mr. Jensen if he could tell the Board the dimensional sizes of the two structures he proposes to remove. Mr. Jensen stated the garage is approximately 19' x 22' and the screen house is approximately 16' x 14'. He also stated the garage contains 418 square feet and the screen house contains 224 square feet.

There was then discussion about the additional square footage that was being requested. Board Member, Ralph Morris, pointed out it was approximately adding an additional 1800 square feet to the existing cottage and by taking the square footage minus the two structures to be removed, it is a net gain of about 1200 square feet. Ralph Morris indicated he could not support the screened porch as indicated on the plan and that the Jensen's should look at an open patio and not a screened in area.

Mr. Jensen asked why that would be the case. Mr. Morris pointed out that because the new addition plus the roof area protruding past the setback line, it could have a significant impact on the water quality as it drains toward the lake.

Board Members in looking at the plan indicated they felt the Jensen's should go back to their architect and see if they can live within the 18 foot height requirement and the re-design of taking off the screened porch. The Board stated that at the 69 foot setback, the requirement would be a 23 maximum roof height. The Board also stated at looking at the prospects of re-locating the garage further back still attached to the new addition.

Mr. Jensen indicated he would like to have some additional guidance so he could sit down with his architect and would welcome any suggestions by the Board. At this time the Environmental Services Director, Mr. Patnaude, indicated that the Board had talked about the possibility of going out to the site. The Board asked Mr. Patnaude if he had been out to the site. He indicated that he had and thought it would be a great idea for the Board to physically go out to the property. Board Members proceeded to discuss among themselves as well as with the Chair as to what dates would be available. Mr. Patnaude stated the Jensen's are here this evening and there is still plenty of light and recommended the meeting be reconvened out at the Jensen's property. Board members agreed. Chairman indicated that everyone would reconvene out at the Jensen's property on the east side of Cass Lake on Parcel 08.00171.00 at approximately 7:40 p.m. August 27, 2012.

Acting Chair, Don Hazeman, reconvened the Beltrami County Board of Adjustment at the property of Warren and Cynthia Jensen on Tax Parcel 08.00171.00. Roll call was taken. All members present at the County Administration Building were present on the property. Members reviewed the outline of the new addition which Mr. Jensen had outlined with yellow string and stakes.

Board of Adjustment Member, Ed Fussy, stated Mr. and Mrs. Jensen should try to get the new structure back as close as possible to the 100 foot setback. Board of Adjustment Member, Ralph Morris, stated that in standing on the property looking at the site, he understands the existing cabin is pretty much a transition zone and the existing cabin is in line with the adjacent structure. Chairman, Don Hazeman, asked Board Members if it was the consensus of the Board that the Jensen's should be allowed to utilize the existing structure. Board of Adjustment Members responded it was their consensus the cabin was pretty sound and its location was in line with the neighboring structure on the left and they were supportive of the discussion of the addition going onto the existing structure. Board of Adjustment Member, Doug Fussy, stated he would like to see the garage moved further back whether it is attached or detached. Mr. Jensen stated he would have some difficulties with the setback of the garage being 100 feet. Board of Adjustment Members stated if he submitted a revised plan, they would take it under

consideration of the garage being less than the required 100 foot setback due to the type of topography on the terrain and the layout of the Jensen's property.

Board Members listed their major issues of concern:

1. The new roof height of the cabin area to be no greater than 18' to the peak of the roof
2. The new addition roof to be no higher than 23 feet
3. The screened porch would either be changed to a ground level patio or the screened porch would be located at the 100 foot setback on the new addition
4. The attached garage be proposed either at the 100 foot setback or a revised plan be submitted

Board Members were very complimentary in how the Jensen's had maintained their property and the fact that they are going to remove the two non-conforming structures and re-vegetate the shoreline at the location of where the garage or boat shed are located.

**Chairman asked if there was anyone ready to entertain a motion. Ralph Morris moved to approve the Variance request of Warren and Cynthia Johnson with the following exception; that the diagram they submitted this evening with their Variance Application showing the screened porch facing the lakeside is to be a ground level patio or located at the 100 setback area. The attached garage is also to be located at the 100 foot setback area. The new roof of the existing cabin is not to exceed 18 feet and the roof for the new construction of the addition is not to exceed 23 feet. Further that the new addition as well as the cabin will have storm water gutters placed on it and all storm water will be directed away from the lakeshore of Cass Lake. A vegetative management plan should be prepared by Soil & Water Conservation District staff and will be part of the approval of the Variance Permit. The onsite sewer system has been inspected by Dave Larson, a Minnesota Pollution Control Agency licensed inspector, found to be in compliance but the onsite sewer system will need to be increased in size in order to be large enough for a four bedroom home. Further, that the applicant has agreed to remove the following two structures: the 19' x 22' garage also used as a boat shed 10 feet from the water's edge and the 16' x 14' screened porch. Chairman called for a second to the motion. Ray Dalby seconded the motion. Chairman called for the findings of fact.**

### **Findings of Fact**

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (x)      No ( )

Why?

It is a single family dwelling. It is going from a seasonal operation to a year around retirement home. The onsite septic system is in compliance with setbacks and with the Minnesota Pollution Control Agency's SSTS requirements. The onsite septic system will have to be remodeled in order to accommodate four bedrooms. There is adequate area for that to be done. The property is being improved. Two non-conforming structures are being physically removed; one fairly close to the lakeshore and the second one adjacent to the year around cabin.

2. Without the variance is the owner deprived of a reasonable use of the property?

Yes (x)      No ( )

Why?

Constraints as to the size of the lot, shape of the lot and topography.

- 3. Is the alleged hardship due to circumstances unique to this property?  
Yes (x)      No ( )

Why?

Again, size of the lot, how lot lines are located at the diagonal path in the topography of the property.

- 4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?  
Yes (x)      No ( )

Why?

Structure was part of a resort. This parcel was created in 1960. Evidence has been submitted to show that. This was prior to the Shoreland Management Ordinance. There is no adjacent property owned by Warren and Cynthia Jensen on either side. This is a single parcel.

- 5. Will the issuance of the variance maintain the essential character of the locality?  
Yes (x)      No ( )

Why?

It is going to be a single family home in a locality of seasonal and single family homes.

- 6. Does the alleged hardship involve more than economic consideration?  
Yes (x)      No ( )

Why?

Economic hardship was not considered.

If all answers are “yes” the criteria for granting the variance request have been met.

Chairman stated all 6 factors had been looked at and answered yes.

**Chairman asked if there was any further discussion. Chairman called for roll call vote on the motion to approve the Variance request of Warren & Cynthia Jensen. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>

**Motion carried and approved 4 to 0.**

**Planning Commission**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

None

**Chairman thanked the Jensen's and the willingness to allow the Board to come out to their property. Chairman also stated that Mr. Jensen is to coordinate his revised plans with Mr. Patnaude and if they comply, Mr. Patnaude can get this property scheduled with the Mississippi Headwaters Board. The Mississippi Headwaters Board needs to certify the Variance approval of the Beltrami Board of Adjustment for it to be valid. Chairman stated there was no further business to come before the Beltrami County Board of Adjustment/ Planning Commission for August 27, 2012, therefore was prepared to entertain a motion of adjournment. Ralph Morris moved to officially adjourn the Beltrami County Board of Adjustment/Planning Commission Public Hearing for August 27, 2012. Doug Underthun seconded the motion. Motion carried and approved 4 to 0. Chairman called the Board of Adjustment and Planning Commission Public Hearing officially adjourned.**

Respectfully submitted,

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William J. Patnaude  
Beltrami County ESD Director

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Don Hazeman, Acting Chairperson  
Beltrami County Planning Commission