

**Beltrami County Planning Commission/Board of Adjustment Meeting  
Minutes for Monday, February 08, 2024  
County Administration Building – County Board Room  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present:     Todd Stanley  
                              Doug Underthun  
                              Don Hazeman  
                              Ed Fussy  
                              Bruce Poppel  
                              Craig Gaasvig

Members absent:     None

Others Present:     Brent Rud, Director, Beltrami County Environmental Services Department  
                              Shane Foley, Beltrami County Environmental Services Department  
                              Greg Larson, Beltrami County Environmental Services Department  
                              Shannon Schmidt, Beltrami County Environmental Services Department  
                              Brett Franklin, 10344 Grant Creek Rd NW, Bemidji, MN 56601  
                              Kevin Smethers, 9403 Raspberry Ct NE, Bemidji, MN 56601  
                              Cheryl Smethers, 9403 Raspberry Ct NE, Bemidji, MN 56601  
                              Adam Smith, 43741 County 45, Laporte, MN 56461

Chairman called the Planning Commission/Board of Adjustment Meeting to order at 6:00 PM. **Board and staff introduced themselves to members of the audience. Brent introduced Greg Larson, Resource Specialist now working the West side of Beltrami County. Brent reviewed the meeting procedures and process, as well as the agenda, for those in attendance.** The meeting minutes for November 27, 2023, were brought forward for approval. **Todd Stanley moved to approve the meeting minutes of November 27, 2023. Motion seconded by Don Hazeman.**

**Motion carried and approved.**

**Board of Adjustment**

**New Business**

**Variance Request of:**                     **Kevin and Cheryl Smethers**  
  5596 Island View Dr NE  
  Bemidji, MN 56601

Township:  
Body of Water:

Port Hope  
Beltrami Lake (4-135) RD

**The Purpose of:**

Applicants are requesting a variance from the Beltrami County Shoreland Ordinance No. 6 to add on to their existing cabin within the shoreland zone of Lake Beltrami. The existing 2-bedroom cabin is 671 square feet in size, 13' in height, and 42' from the lake. The finished size of the cabin including proposed additions would be 1,766 square feet in size, 20.5' in height, would remain 42' from the lake, and would have 3 bedrooms. Lake Beltrami is a recreational development lake with a 100' structure setback. Any additions to the existing structure would require a variance due to its proximity to the lake.

**Legal Description:**

Tax Parcel 34.00360.00

Lot 010, WINDY ACRES, Section Twelve (12), Township One Hundred Forty-Seven (147), Range Thirty-three (33);

AND

The East 100 feet of the West 830 feet of Lot 3 and the East 20 feet of the West 850 feet of Lot 3 lying south of County State Aid Highway No. 22, Section Thirty (30), Township One Hundred Forty-eight (148), Range Thirty-two (32);

AND

The East Half of the Southwest Quarter (E1/2SW1/4), Section Ten (10), Township One Hundred Forty-eight(148), Range Thirty-two (32).

Shane Foley gave the staff report, discussing lot information and details of the application. Maps showing the location of the parcel on GIS mapping and topography were viewed. Parcel is 4.48 acres in size and 125 feet in width. Beltrami Lake has a 100' structure setback. Photos of the existing structure from all sides, the hill, and the lake were viewed. The cabin was built prior to any shoreland rules at 42 feet from the water. Pictures of the 20-foot terraced hill right behind the cabin and drawings of the proposed additions were also viewed. The base of the hill starts at about 78 feet from the water. A flat location at the top of the hill with a full view of the lake is 180 feet from the water. A variance was approved, but not recorded, in 2007 to allow the addition of a bathroom. It is proposed that the existing cabin, which consists of several additions, would be squared up and a loft added. Taking all current bump outs into consideration, the proposed width of the cabin would essentially be increased by four feet and the depth of the cabin would be increased by five feet. Staff recommends that applicants be given the choice of either of the following options: #1- Approve a single-story structure with the proposed footprint, 9-foot side walls, and a max roof pitch of 5/12 at the current 42-foot setback, OR, #2- Approve the proposed structure with the footprint and height changes requested at the 75-foot setback by building into the hillside. Applicants could also move the entire proposed structure behind the 100-foot setback at the top of the hill and build with only a building permit, no variance required.

Kevin and Cheryl Smethers approached the Board to answer questions. The Board asked if the applicants would be OK with 9' walls and no loft. Board wanted to know why loft was being requested when the purpose of this variance is to make the cabin more handicap accessible.

Kevin said that he just likes a loft and has always wanted one. Kevin now needs 24-hour, around the clock, care and would like his caretaker to have their own space in the cabin. Also, future grandkids would be able to utilize the loft. Cheryl expressed her concerns about erosion if the currently terraced hill behind the cabin is disturbed. Board explained that a capable contractor would have no problem building into the side of the hill and properly addressing runoff from ground disturbance. The Board also asked if the existing rock chimney would be reused. Yes, it will be taken down and rebuilt in the remodeled cabin. Applicants appreciated being given options and will discuss further.

The Board opened the floor for public comment. Emailed comments received from the public were read aloud by Shane Foley.

- Email - **Stephanie Klamm, Area Hydrologist for the DNR**, had no specific comments other than “applicants should try to minimize runoff to the lake due to the higher and steeper roof and larger footprint”.

Applicants were asked if there was anything they would like to respond to, or any additional information they would like to offer. Applicants declined.

Finding no further public comment, the Chairman closed the floor for public comment on the Kevin and Cheryl Smethers variance request.

### **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? Ordinance and statutes allow for the remodeling of the existing cabin at one-story in current location or moving the cabin back further on the lot with proposed changes.
2. Without the variance is the owner deprived of a reasonable use of the property?  
Yes (x)    No ( )  
Why? Applicant’s disability does not allow full use of the cabin as it currently exists.
3. Is the alleged hardship due to circumstances unique to this property?  
Yes (x)    No ( )  
Why? The size and proximity to the lake of the existing cabin does not allow further modification.
4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?  
Yes (x)    No ( )  
Why? Parcel is long and narrow with a steep hill right behind the existing cabin - topography. Cabin was built prior to shoreland ordinance.

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

Why? The age and accessibility of the cabin now requires improvements to take place. The view from the lake will be enhanced by any improvements made to the cabin.

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

Why? Economic consideration was not a factor.

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

**Motion by Todd Stanley to approve the variance request of Kevin and Cheryl Smethers with nine-foot sidewalls and the option to choose either of the following building plans within the 100' building setback: 1.) Approve a single-story structure with the proposed footprint, 9-foot side walls, and a max roof pitch of 5/12 at the current 42-foot setback, or 2.) Approve the proposed structure with the footprint and height changes requested at the 75-foot setback by building into the hillside. Doug Underthun seconded the motion.**

**Motion unanimously carried and approved.**

Chairman then closed the Board of Adjustment Public Hearing on the proposed Variance request of Kevin and Cheryl Smethers.

**Variance Request of:**

**Brett Franklin**  
10344 Grant Creek Rd NW  
Bemidji, MN 56601

Township:

Lammers

Body of Water:

Unnamed Lake (4-280) SP

**The Purpose of:**

Applicants are requesting an after-the-fact variance from the Beltrami County Shoreland Ordinance No. 6 for a structure that was built near Unnamed Lake (SP 4-280). The unnamed lake is classified as a special protection lake which requires a 150' structure setback. The newly constructed 1,568 square foot home was built 111' from the lake.

Applicants are also requesting an after-the-fact variance from the Beltrami County Shoreland Ordinance No. 6 for a pole barn that was built within the structure setback of Grant Creek Rd NW. Grant Creek Rd NW is a township administered roadway which requires a 20' structure setback. The newly constructed 30' x 48' pole barn was built 14' from the road right-of-way.

**Legal Description:**

Tax Parcel 23.00104.00

That part of the NE ¼ of NE ¼ , Section 12, Township 147, Range 35, described as follows: Commencing at the northeast corner of said Section 12; thence on an assumed bearing of South 02°12' East along the east line of said Section 12 a distance of 378.02 feet to the actual point of beginning; thence continue South 02°12' East along said east line a distance of 896.66 feet to the southeast corner of said NE ¼ of NE ¼ ; thence North 44°15' West a distance of 730.46 feet; thence North 31°55' East a distance of 197.39 feet; thence North 59°48' East a distance of 318.24 feet; thence North 64°47' East a distance of 106 feet to the actual point of beginning and there terminating, together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: 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.

Greg Larson gave the staff report and went over the details of the after-the-fact application for a modular home built within the 150' structure setback from the lake, and a pole barn partially built within the township road 20' right-of-way setback. A variance would be required in order to build on *any* buildable land within this parcel. Maps showing the location and size of the parcel, the prior structure, the topography, and unnamed lake were viewed on GIS mapping. Photos showing the current structures and topography of the parcel were also viewed. The current SSTS at this site was inspected on 10-10-23 before property transfer. Existing drainfield is compliant, but existing tank is cracked. Cracked tank will be replaced spring of 2024 by MAC Excavating. SSTS is outside of the 150' setback from OHWL. Staff recommends approving this after-the-fact variance request as proposed.

Adam Smith, contractor, and Brett Franklin, applicant, approached the podium to answer questions from the Board. Adam explained that he checked with Lammers Township, and they do not require any permitting. He did not think to check with Beltrami County. Adam had measured 33' from the centerline of Grant Creek Rd NW, but did not account for the additional 20' setback. Adam explained that he did not think he would have any issues with bringing in the new double-wide, as he was putting it in the exact location of the previous mobile home in order to connect to well and sewer.

The Board opened the floor for public comment.

- Email – **Stephanie Klamm (DNR)** wishes we could have caught this file before any structures were built but realizes meeting any setbacks on this lot would be tricky.
- Email – **Jamie and Michelle Elting (neighbors):**
  - 18-year residents on Unnamed Lake SP 4-280.
  - Concerned about where fill was placed, if the septic system is up-to-date, and proximity of the pole shed to the road.
    - Several loads of fill were brought in – high ground is a thin narrow band between lake and wetlands.
    - Was fill used to change the elevation of the building site? Or, was it used to increase the amount of usable land?

- Has septic been inspected? Property has been vacant for more than 10 years.
- Every winter, someone runs off the road on the corner where the pole barn is located. Due to the steep grade, vehicles leaving the road travel some distance into the ditch. Pole barn could be an additional hazard to drivers and property owner.
- Realtor should have conveyed the limited buildable space on this lot and the need for permits.
- Do not desire to be poor neighbors but feel the need to continue stewardship of this watershed.
- Thank you for the opportunity to share concerns!

Finding no further public comment, the Chairman closed the floor for public comment on the Brett Franklin after-the-fact variance request.

### **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? The new home was placed in the exact location as the previous home at the same setback from lake.
  
2. Without the variance is the owner deprived of a reasonable use of the property?  

Yes (x)    No ( )

 Why? There is no other buildable area on this parcel.
  
3. Is the alleged hardship due to circumstances unique to this property?  

Yes (x)    No ( )

 Why? The lot contains only a small, narrow buildable area bordered by wetlands and the lake.
  
4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?  

Yes (x)    No ( )

 Why? Practical difficulty was caused by the shape of the lot and the topography.
  
5. Will the issuance of the variance maintain the essential character of the locality?  

Yes(x)    No ( )

 Why? Replacing the old mobile home, cleaning up all the trash, and fixing the septic will be an improvement.
  
6. Does the alleged hardship involve more than economic consideration?  

Yes (x)    No ( )

 Why? Economic consideration was not a factor.

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

**Additional Questions for After-the-Fact Variance Request**

1. Why did the applicant fail to obtain the required permit or comply with the applicable official controls before commencing work? Was there any attempt to comply with the applicable official controls?  

Yes (x)    No ( )

Contractor checked with Township about permitting and was told that the Township did not require permits. Contractor thought it was acceptable to then replace existing structure with new structure in same location.
  
2. Did the applicant make a substantial investment in the property before learning of the failure to comply with the applicable official controls?  

Yes (x)    No ( )

The pole barn was almost completely finished, and the new home had been moved onto the lot.
  
3. Did the applicant complete the work before being informed of the violation of applicable official controls?  

Yes (x)    No ( )

Building project was ¾ finished, but all work was halted once applicant was informed of need for permits.
  
4. Are there similar structures in the area?  

Yes (x)    No ( )

The property to the east of this property is very similar.
  
5. Based on all the facts, does it appear to the Board of Adjustment that the applicant acted in good faith?  

Yes(x)    No ( )

As soon as applicant and contractor were informed of need for permits, they paid the after-the-fact fees and made application for a variance.
  
6. Would the benefit to the County appear to be outweighed by the detriment the applicant would suffer if forced to remove the structure?  

Yes (x)    No ( )

Applicant has cleaned up garbage and hazardous waste that was strewn about the property and will replace dilapidated structure with new structure.

**Motion by Bruce Poppel to approve the after-the-fact variance request of Brett Franklin as proposed. Todd Stanley seconded the motion.**

**Motion unanimously carried and approved.**

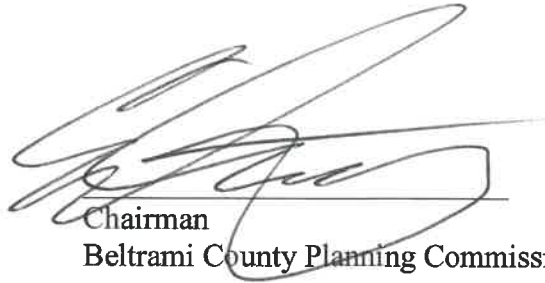
Chairman then closed the Board of Adjustment Public Hearing on the proposed After-the-Fact Variance request of Brett Franklin.

**Motion by Doug Underthun to adjourn the Planning Commission/Board of Adjustment Public Hearing for February 08, 2024. Motion was seconded by Don Hazeman. Motion carried and approved. Chair called the meeting for February 08, 2024, officially adjourned. The next meeting will be held on Monday, February 26, 2024, at 6:00 PM.**

Respectfully submitted,



Brent Rud  
Beltrami County ESD Director



Chairman  
Beltrami County Planning Commission