

Minutes of the Todd County Board of Adjustment Meeting

January 23rd, 2025

Completed by: Sue Bertrand P&Z Staff

Site Visits conducted by Adam Ossefoort and Danny Peyton on January 15, 2025.

Meeting attended by board members: Chair Rick Johnson, Mike Soukup, Danny Payton, Russ Vandenheuvel, alternate, Larry Bebus and Planning Commission Liaison, Ken Hovet.

Staff members: Adam Ossefoort and Sue Bertrand

Other members of the public: Sign-in Sheet is available for viewing upon request.

Rick called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Each board member introduced themselves and Rick explained the process for those attending.

Adam stated agenda item #4 applicant, Travis Eckel, sent an e-mail requesting to table until the February 27th, 2025 meeting.

Motion to approve the agenda as modified to hear Eckels next month by Russ, seconded by Mike, voice vote, no dissent heard, motion carried.

Ken motioned to have the December 19, 2024 meeting minutes approved. Danny seconded the motion. Voice vote, no dissent heard. Motion carried.

Introduction of the meeting process and etiquette by Rick.

AGENDA ITEM 1: Reorganization of the Board and review Business Rules

Russ nominated Rick for Chairperson.

Rick stated he would agree; however, the position is becoming more and more problematic to make the meetings, for personal matters, as they are retired, and would like to be South for the winters. He stated he would be willing to chair for another year, but asked other board members to think about it.

Rick nominated Russ for Chairperson and Russ accepted.

No other nominations so, Rick closed nominations.

Rick and Adam also relayed Bill's willingness to be Vice Chair if voted in, as he was unable to attend tonight's meeting.

Russ nominated Bill for Vice Chair.

Ken moved to close nominations and cast a unanimous ballot for Bill as Vice Chair. Russ seconded.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
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Larry Bebus	Yes
Mike Soukup	Yes
Danny Payton	Yes
Ken Hovet	Yes
Russell Vandenheuvel	Yes
Rick Johnson	Yes

Motion carried, Bill was voted to be Vice Chair.

Adam read the written ballots (4 to 2) with Russ voted as Chairperson.

Danny motioned to accept Russ as Chair. Rick seconded.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Larry Bebus	Yes
Mike Soukup	Yes
Danny Payton	Yes
Ken Hovet	Yes
Russell Vandenheuvel	Yes
Rick Johnson	Yes

Motion carried. Russ is the new Chairperson.

Adam, moving on to Business Rules, mentioned #16 Voting had a discrepancy, and recommended to remove between the commas "~~who being present when his or name is called~~" for an edit, as it is written wrong.

Danny motioned to approve the Business Rules with the correction, and Mike seconded, voice vote, no dissent heard, motion carried.

AGENDA ITEM 2: Thomas & Bonnie Dingmann – PID 06-0058600 – Burnhamville Township

Request(s):

1. Request to reduce the OHWL setback from 100' to 65' to enclose an existing deck in RD Shoreland Zoning.

Thomas & Bonnie were present as the applicants and introduced themselves.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office. Also went through some updated information also added to the staff report.

Proposed Condition(s):

1. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
2. Development of a storm-water management plan submitted to Planning and Zoning prior to land use permitting.

Dingmanns confirmed the staff report was accurate.

Correspondence received: Nothing new.

Public comment: None.

Board discussion:

Russ stated on the drawing, he didn't notice the sidewalk going down to the lake and wondered if they were thinking of taking that out?

Thomas stated that is an option.

Bonnie added, if it has to be, it will.

Thomas stated he thought the French drain would take care of it, but if it has to be removed it can be.

Danny asked if they were still going to have a door on the South side of the proposed deck enclosure?

Bonnie and Thomas, yes.

Russ will that be the only door?

Bonnie, yes. There will still be the walkout underneath.

Ken, so you are still going to have a door by the short stairway on the side?

Bonnie explained where the door and steps will come out, and they will still have the walk out door.

Ken asked if there were other doors and Adam explained where the third door is.

Ken said he was good with that.

Mike asked if the French drain and water garden will be at the top of the hill on the left side from the lake looking to the cabin?

Bonnie, yes.

Mike stated he still has a concern about the sidewalk, like a gutter, down to the lake.

Thomas offered to do whatever it takes to make it work, if it has to come out. He is 100% for the lake.

Russ pointed to the impaired water highlighted notice on the staff report.

Bonnie stated that is why they are going with the French drains to take anything from the roof and disperse it correctly.

Ken would like to add the condition to get rid of the concrete down to the lake, and replace with grass, and the others agreed.

Thomas stated they were definitely thinking of doing that the whole time, and can do it.

Rick praised the work they have done, to him very critical and because of the proximity of the building and the way the land is contoured, you have a lot of water running into the lake, and would like to see as another condition: to remove the sidewalk and have a natural vegetation buffer zone or no mow zone, like you have already done. In reading reports from the DNR, they are recommending that everybody have a minimum of twenty-five-foot natural vegetation buffer zone on these impaired lakes that they want to restore. Stated he thought they were almost there, and that would help get him over the hump with all of his concerns. Rick added he would like to have that as a condition. That's probably one of the biggest things' lake owners can do right now, is restore the natural vegetation on the shoreland. These manicured lawns to the lakes are destroying the lakes. He believes the applicants are doing what they can to protect the lake.

Thomas stated he didn't really know what was out there and found out about the French drains and was 100% for them and apologized for not having that at the first meeting.

Adam showed the existing buffer and Rick stated if they could have the 25' buffer as a condition, which is what they have, and it is what the DNR is suggesting, at least, and encouraged them to do more if they could.

Bonnie, could we still have the existing sidewalk along the side with the few steps?

The board agreed that could stay for safety reasons.

Larry, asked if it would funnel the water from the sides?

Rick stated with the extra 25' of natural vegetation it will help slow it down without the concrete sidewalk down to the lake. Plus, with the French drains there will be less water in that direction.

Danny confirmed the few steps would be wise to keep for their own safety.

Danny stated he had a little trouble with one of the criteria questions... of an alternative spot on the east end, and would like to go through the criteria questions. As far as environmentally, what they are doing for the lake, is fantastic.

Rick added, if there are other alternatives, the variance is simply unreasonable. What Adam had added for updated information in the staff report, Rick stated he has found his comfort.

Larry pointed out the utilities (electric, fiber optic and natural gas) going across the other side, they would have to move them all, and doesn't know of any place they could build other than proposed.

Russ called for criteria questions.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	Vote and Comments
Mike Soukup	Yes

Rick Johnson	Yes
Dan Peyton	Yes
Larry Bebus	Yes
Ken Hovet	Yes
Russell Vandenheuvel	Yes

Majority response- Yes

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	Vote and Comments
Mike Soukup	Yes
Rick Johnson	Yes, it is reasonable and orderly, assuming the rainwater run-off can be managed, and with what is being proposed, it can be effectively managed and mitigated.
Dan Peyton	Yes
Larry Bebus	Yes
Ken Hovet	Yes
Russell Vandenheuvel	Yes

Majority response- Yes

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	Vote and Comments
Mike Soukup	Yes
Russell Vandenheuvel	Yes
Dan Peyton	No, due to there is another possible site.
Larry Bebus	Yes
Ken Hovet	Yes
Rick Johnson	Yes

Majority response- Yes

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	Vote and Comments
Mike Soukup	No
Russell Vandenheuvel	Yes
Dan Peyton	No
Larry Bebus	No
Ken Hovet	Yes
Rick Johnson	No

Majority response- No

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	Vote and Comments
Mike Soukup	Yes
Russell Vandenheuvel	Yes
Dan Peyton	Yes, beautiful lake, not changing the bigger picture, it is the same height and width of the structure.
Larry Bebus	Yes
Ken Hovet	Yes
Rick Johnson	Yes

Majority response- Yes

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	Vote and Comments
Mike Soukup	Yes
Russell Vandenheuvel	Yes, agreed with Ken.
Dan Peyton	No
Larry Bebus	Yes
Ken Hovet	Yes, it involves environmental as well.
Rick Johnson	Yes, the need stating the practical difficulty is they wish to expand the living area with a lake view.

Majority response- Yes

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	Vote and Comments
Mike Soukup	Yes
Russell Vandenheuvel	Yes
Dan Peyton	Yes
Larry Bebus	Yes, with the conditions.
Ken Hovet	Yes
Rick Johnson	Yes, due to all of the conditions that are imposed.

Majority response- Yes

Summary of criteria question majority responses as follows:

#1	Yes
#2	Yes
#3	Yes
#4	No
#5	Yes
#6	Yes
#7	Yes

Russ pointed out there was a majority “no” on number four with the rest mostly “yes”, and asked for any more discussion.

Bonnie stated if the deck does not get covered it will remain a maintenance free deck, the way it is.

Ken stated he was one of the “yes” votes on number four and stated he sincerely believes their difficulty is not being able to arrange their property to accommodate something and has required a variance. The big stopper is the septic system as there is no other place to put it, and that is not their doing. It has everything to do with the size of the lot. So, he would argue for a “yes” on that one and move to approve this variance request with the conditions.

Russ asked for more board input or a second.

Rick stated it is all reasonable and an improvement to the site, what he gets caught up in, is you need a variance due to circumstances that were created by the land owner. The fact this cabin is 65 feet from the lake and not 100 feet is because of the land owner (not the Dingmanns) built the same year, 1972, our shoreland regulations began, and how it got through, he doesn’t know. He felt he had to say “no” on that. No matter how you paint it, it’s still an expansion of the dwelling and a 40% deviation, and borders that line of: is this reasonable or not? That is why he had to vote “no” on that one. He reminded the board of the “spirit and intent” of the comprehensive plan is the hope for these legal non-conforming structures to disappear

someday, and if we keep allowing everybody to expand these structures, like a 40% footprint within the 100' on a lake that is impaired, that needs to be restored, he stated he struggles with getting past that part, too.

Thomas, defended the new roof as a help with the water flow. Taking out the side walk, so the water can be filtered is a help with the water flow. By not letting them do this, the water is going to go right down to the lake. What can we do to make it better?

Rick stated he could not say "yes" to that specific criteria question and still be fulfilling his fiduciary responsibility. It is also important to express why each member says "yes" or "no". Just because he says "no" to that criteria question does not mean he says "no" to the variance. He is specifically talking about one criteria question. He agreed with Tom their efforts were helping the lake. He is stating his reasons for the "no" as it is critical in the building of the record.

Larry stated, he agrees with Rick. Is it unique to the property not created by the landowner? No. Is it something that he agrees with you on? Yes. But going with each of the specific criteria, he is on the edge but still believes it is caused by the 1972 land owner, and now you are suffering with what they did. If he looks at all of the criteria, he has an issue with that one only.

More discussion on how much they have tried to improve the lake lot.

Mike seconded with the conditions stated.

Ken repeated he had motioned to approve with the stated conditions.

Adam included: This is from 15.99, discussed awhile back, when a vote on a resolution or a properly made motion to approve a request fails for any reason, the failure shall constitute a denial of the request, provided that those voting against the motion state their reasons on the record why they oppose the request. In other words, if you are going to vote in favor of the motion, that's fine, if you are voting against the motion, you have to state your reasons for denial, when you vote.

Conditions:

1. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
2. Development of a storm-water management plan designed on a 10 year/24-hour rainfall event submitted to Planning and Zoning prior to land use permitting.
3. Removal of the sidewalk on the lake side of the structure prior to land use permitting.
4. Establishment of a 25' vegetated buffer along the lake frontage.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Larry Bebus	No, caused by owner, lake is impaired, this is 65' instead of 100'
Mike Soukup	yes
Danny Payton	No, practical difficulty wanting the view, that is a land owner request

	and not unique to the property. Liked how it was presented, fantastic, but with the lake being impaired, we are trying not to move closer to the lake, if there is another location he would go with that possibility and say no to this request.
Ken Hovet	Yes
Rick Johnson	Yes
Russell Vandenheuvel	Yes

Russ stated with four at yes and two at no, motion carried to approve.

AGENDA ITEM 3: Jacob Wiener – PID 21-4001400 – Round Prairie Township

Request(s):

1. Request for variance to reduce the setback from the Road Right of Way from 100' to 34' for proposed addition of covered entry, walkway and Bell Tower to existing structure in Commercial Zoning.

Jacob Wiener was present as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

None

Jacob confirmed the staff report was accurate. The church owns all the way down to Ellis.

Dan went through his site visit report. This report may be viewed, upon request, at the Planning and Zoning office.

Jacob commented they will be moving the current well. He pre-planned, and all of the workings for the well are in the school. They had planned on moving the well to the backside of the property. That had been decided when the school addition was completed with the piping already underneath the building to do that. They are planning to go out about ten feet on the South side with part of the proposed addition. Jacob mentioned other than residences in the area, there is a trucking business nearby where the owner lives on site.

Correspondence received: None.

Public comment: None.

Board discussion:

Ken township okays this?

Jacob stated they presented to the township and they signed off on it.

Ken asked if the setback was from Hwy 71?

Jacob stated no, it is from Ellipse Loop. They are 111 feet from 71.

Adam stated even with the addition they will still be 101' from 71. Adam added Ellipse Loop is a public road, privately maintained by the Church.

Ken, so the setback is from the frontage road?

Jacob, yes. But the Township does not maintain the road, Jacob, as a member of the church has done all of their own maintenance on the road. The township has not taken it over. It is a glorified driveway to the Church.

Adam confirmed Jacob's application was submitted to the township back in November and we have the signatures.

Russ asked if they will be taking away parking area for the addition?

Jacob explained mainly the entry drop off area, where the handicapped people get dropped off, is what will be enclosed.

Russ asked if there will still be parking in front of the proposed addition.

Jacob, yes, there is room for about three parking spots.

Russ asked if the Frontage road had a speed limit?

Jacob, no, it's just a glorified driveway.

Larry asked how far Ellipse loop goes down past the Church?

Rick about a quarter of the mile.

Larry asked if other people use it other than the Church?

Jacob stated it is the most travelled road in Round Prairie Township just from the parishioners and back and forth to the school every day.

Russ how far south from Long Prairie?

Jacob, 5 miles.

Rick stated we have setbacks to provide safety for the people, possibly cats and dogs, and for road maintenance. Rick asked Dan if he felt uncomfortable with that proposed addition?

Danny explained if this was a township road out on the back forty, the setback would be completely different. Asked Adam to show the properties along Ellipse Loop. Because this is commercial it is a 100' setback, otherwise it is a two-rod setback or 35'. Is this created by the land owner, he would have to say yes, because they are requesting it. Addressing Ellipse Loop, coming off 71, it goes North and they own 2/3rds of land with the business on the corner that basically don't use the road as he has the tar road. The only people who use the road is the people who belong to the Church.

Jacob agreed he does not come in this way.

Danny continued, the township did not take it over and maintain it, so he is having a hard time enforcing the setback. Is this a true ruling on the setback in his thinking? if you are talking from 71, they are a shoe in because they meet the setback. If you are talking a private driveway, there is no question about it, it's not a road then.

Rick stated they have a lot of real good reasons for why they want to put a wraparound covered porch around the building. There is concrete there, you are still going to have people there. The fact that they are just putting a cover over it, doesn't change any of that. Now you have people there and they don't have to get wet if it rains. It is very reasonable and makes a lot of good sense why they want to do it, but they need a variance on the setback. When you were standing there, did you have any safety concerns for the people standing under the proposed covered addition? Personally, Rick added he did not have any concerns at all. He would give them the variance.

Danny stated his only safety concern were the vehicles who are using that particular approach right in front of the building, suggest one width to the south for the driveway entrance, would improve the safety, in his opinion.

Jacob added, the rule of travel is: they enter the South entrance and exit the North driveway.

Danny added they are actually improving the safety by putting an overhead structure for the people, with pedestrians walking in and out.

Jacob explained they like the traffic pattern the way it is, as it eliminates so much backing up. With children back and forth to school running around all of the time, there is less of a chance of getting run over when there is less backing up of vehicles. He also suggested possibly reducing the North exit to a one lane width, if need be.

Danny also added he felt the Church could handle the parking situation how they feel is most safe, and best for them.

Russ asked if a condition could be put on this to have only two handicapped spots in front?

Jacob stated he could have an architect look at it and see how he would situate stuff, as he has had to before on other projects.

Russ clarified, just to keep it a minimum within the setback.

Larry, parking on the side and not the front.

Adam clarified the 100' setback distances from all right of ways in commercial zoning, including frontage roads.

Jacob added, originally this building was permitted for a 100' setback from the frontage road and was set where it is now.

Ken, so you are already encroaching on the setback now, how much more are you asking with the building?

Jacob, ten feet.

Mike stated the driveway could be moved to the south so it is not so close to the people walking.

Ken addressed Jacob, you know the traffic flow, if you thought there was a safety issue you would have addressed it already. We are not there, so we do not know what the traffic flow looks like.

Danny stated the parking should be left to the Church.

Rick asked Jacob if he will be the builder as well as the applicant for the Church?

Jacob, yes, and also a Church parishioner.

Russ asked if the board would like to go through the criteria questions or entertain a motion.

Danny stated he is alright not going through the criteria questions.

Rick added the criteria questions we need to be concerned about with a variance, is it in harmony with the general purpose and intent of the official controls and they have discussed that, and all safety concerns and those were the two that did apply to this application.

Russ asked for a motion.

Rick made the motion to grant the Variance appeal, and stated by the board approving this it doesn't really change a whole lot anyway, you are still going to have people around the building, but would like to see some kind of safety condition.

Adam reminded the board any conditions put on this, we would have to be able to enforce as a follow up.

Mike stated he would be fine with no conditions.

Rick amended his motion: to approve with no conditions and Ken seconded.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Larry Bebus	Yes, a little hesitant, but if the board feels the safety issues have been addressed, he can live with that.
Mike Soukup	Yes.
Danny Payton	Yes, with Ellipse Loop not taken over by the township, only traffic is Church and school, the Church maintains the road and they do meet the setback from 71, so, yes.
Ken Hovet	Yes
Rick Johnson	Yes
Russell Vandenheuvel	Yes

Motion carried.

Motion to adjourn by Ken, seconded by Mike, voice vote, no dissent heard meeting adjourned at 7:33 PM.