

Minutes of the Todd County Board of Adjustment Meeting

March 27th, 2025

Completed by: Sue Bertrand P&Z Staff

Site Visits conducted by Adam Ossefoort and Larry Bebus on March 17, 2025

Meeting attended by board members: Chair Russ Vandenheuvel, Vice Chair Bill Berscheit, Mike Soukup, Danny Payton, 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.

Russ called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Each board member introduced themselves.

Introduction of the meeting process and etiquette by Russ.

Motion to approve the agenda as written by Dan, seconded by Mike, voice vote, no dissent heard, motion carried.

Bill motioned to have the February 27, 2025 meeting minutes approved. Ken seconded the motion. Voice vote, no dissent heard. Motion carried.

AGENDA ITEM 1: Brendan & Jacqueline Jay: PID 06-0032400 – Burnhamville Township

Request(s):

1. Request to decrease the OHWL setback from 150' to 104' and;
2. Decrease the Road ROW setback from State Hwy 28 from 50' to 21.5' for placement of an RV in NE Shoreland Zoning.

Brendan and Jacqueline Jay were present as the applicants and introduced himself. Brendan stated they bought the lot and obviously there were some discrepancies they never knew they were up against, but they do now. It has been a journey and an education. It's where they are now.

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

Proposed Condition(s):

1. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
2. Maintain a 25' vegetated buffer along the entirety of the lake frontage. A 10' wide maintained area shall be allowed for lake access.
3. Applicant shall abide by all other applicable Federal, State, and local standards.

Brendan and Jaqueline confirmed the staff report was accurate.

Larry went over his site visit report. This report may be viewed in full, at the Planning and Zoning office, upon request.

Correspondence received: Yes, by Gary Duncomb, which Adam read into the record. This e-mail may be viewed in full, upon request, at the Planning and Zoning Office.

Public comment: None.

No written comment from the township.

Board discussion:

Dan asked what the setback from the highway was and what is the right of way width?

Adam explained using the survey, pointed out the fifty-foot setback with a standard sixty-six-foot road right of way and used the survey on the overhead to refer to, and pointed out where the proposed camper will go.

Dan referred to the topography and page seven photo, the area looks flat, although the topography shows it is a continuous hill. Dan asked Larry who was on the site visit if he could tell if it was leveled off within the last couple of years? Or has this been this way for years?

Larry stated it looks like it has been this way for years.

Brendan stated it is not as flat as this makes it seem.

Adam pointed out the flatter areas on the survey and the corresponding picture.

Dan stated there are one-foot increments and where the camper will be, it may be a two to three feet of changes and asked if that is what they saw on site?

Adam agreed.

Brendan explained where a previous camper used to sit by the light pole and stated it got all messed up and will have to be leveled off and ideally that is where their camper would go.

Dan what size RV are you planning?

Brendan explained it's a 40' Destination camper.

Jacqueline 8' x 40'.

Brendan stated it's more of a permanent camper. This would be where they retire and a place to go with the grandkids. Recreation for the Jay's and everything they are up against now, is nothing they knew when they read the MLS.

Brendan stated ideally in the long run, they would like to build a small cabin. They understand if they don't get this variance.

Dan under 12' in height?

Brendan, yes, you can pull it under any bridge on the highway, and he is a commercial driver, too.

Dan mentioned the bridges are sixteen feet.

Bill mentioned there was a variance granted in 1983 for a 140' for a house. The original request, the footage does not line up and it tells him that it was non-usable.

Adam stated the old variance has no bearing on this application, the measurements were not accurate, with hand drawn measurements.

Bill agreed, he noticed the distances are not correct and didn't want to grant a variance for a camper and then go out and find a house built and a camper, and realizes there is no way that can happen.

Adam explained our ordinance states you must take action on a variance within three years, and that never happened. It was incorrect and never utilized back in 1983.

Brendan stated that was not their intent. Their intent was to be good stewards of the lake.

Ken would be befuddled as to how that variance could have been granted.

Brendan stated there was probably a lot of beer drinking back then and the Jay's wanted to do it the right way, so the board could make an informed decision.

Russ is this in the road right of way?

Brendan explained the Festler's Land Surveying found the original monuments for the survey, and the ones the DNR used, and it actually puts the start of the road right of way seven feet off the center-line of the State highway 28. That's why those numbers don't fall within the center of the highway. So many stakes out there and but found the accurate correct stakes and the same as the DNR for the survey. They are also planning on registering this survey regardless if the variance is approved or not.

Adam stated registered at the recorder's office.

Mike asked how the sewage will be handled?

Brendan stated he is working with Adam for the septic permit and system with J.D. Services coming out to do the design and install. Would also like to put a well out there. Their intentions are to put flower beds around the entire camper for rain water collection. Down the road, if they were to put a cabin in, they would use the storm water abutment system that was designed before, that is on file.

Ken asked how wide State 28 was on the surface, just the pavement?

Adam measured the road as traveled, just the pavement, about 22.5' on the GIS.

Ken asked how far the trailer will be from the pavement? They are going to be within the setback anyway.

Adam stated $21.5 + 33 + 7$ (61.5).

Ken stated the reason for the setback usually is for snowplowing so you don't get snow thrown on it, and you are a long way away, now. In his opinion they have room to move closer to the highway, and it would make the lake setback more palatable.

Brendan stated they could work with that, but it would make less room to park and it is all going to hinge on where he can fit a septic system. Explained on the overhead, the placement of the proposed septic and if the variance is granted he could get a design drawn up.

Larry, where will the well be?

Brendan explained Northland Well Drilling would come out after the septic is designated.

Bill, first of all, he would agree with Ken, if they could back that thing toward the highway a little bit, so foot traffic would be on more level ground and they are open to less erosion. Is 50 feet consistent along this highway area for the setback?

Ken's big hang-up is the distance you are asking from the lake. If they could reduce that, it would be easier.

Brendan explained where the old camper was, is where they would like to place it. With a destination trailer you don't actually put down leveling jacks so they would have to make it reasonably level. That is also where they have the deck sitting. Want to do what is right for themselves, the County and the lake.

Jaqueline stated they could move the deck.

Adam searched the DOT and found 33' just to the South. No further data for further North.

Russ asked about the driveway entrance.

Brendan explained the driveway is on the South end but they use the North access, as it is not as steep to the road. Explained they would fully understand if the board does not approve it. They hope you do. They will continue to work with Adam to make sure everything is done right.

Russ asked the board if anyone would like to make a motion?

Brendan stated that JD septic stated the realtor indicated there was 36 feet to work with. He got out there and the setbacks are overlapping. Called the County, talked to Sue and she said it was not buildable and the setbacks overlap. He stated they have bought and sold houses in the past and have never had an issue reading

the MLS's, everything has always been good on them, and this time there was nothing about any of this on it, and was dishonest. He went on, their decision on where they go from here, hinges on the board's decision.

Bill stated he would like to make the motion to approve this variance, but would like to see them work with the County in moving it back another ten feet, closer to the highway. Would also like to add a condition that we maintain road side screening.

Jaqueline stated they like their privacy.

Brendan agreed they were not going to remove any roadside trees and have plans to plant ornamental shrubbery along the highway whether it be lilacs or whatever, just to kind of take that out of the equation.

Bill explained the deviation from the 104 feet from the lake to 114 feet decreases the road right of way setback from 21.5 feet to 11.5 feet.

Adam explained the OHW deviation would be fine without noticing the public again, but legally, the increase into the road right of way would require our office to send out notices to the public again, with the new request, so the public has a chance to comment.

Brendan spoke to the immediate neighbor, and he had no problem.

Bill rescinded his motion.

Dan mentioned the no mow zone was 25' and let the shrubbery grow up, to protect the slope.

Brendan asked for clarity on the condition "25- foot no-mow zone" and wondered if he was going to be able to mow any of the yard down by the lake? He added, the idea was to groom it and make it really nice down by the lake.

Adam stated no, you cannot mow down by the lake, for 25' other than a ten-foot lake access path to get to the dock, according to the listed condition, but that can be changed. It may look nice to mow, but the down side is turf grass doesn't protect the lake. It's the tall standing vegetation that captures the nutrients, sediments and all of that sort of stuff.

Brendan added, and holds wood ticks and all that other stuff.

Adam agreed.

Dan stated the rule of thumb is the grass height is the same length as the root depth. We also like to have 50% sunlight to hit the ground for the surface roots, grass and so-forth and the tree's roots also protect the subsoil from sliding down the hill. We need both, especially on this bluff for protection. We need the tree roots to protect underneath and the grasses to protect the surface from any water erosion from any rain. Added, the steeper the slope, the more protection we need.

The Jays both agreed it was pretty steep, and this is all educational. They are learning as they sit here, talking to the board. Whatever the boards' decision is, they will be fine with it.

Bill stated he was asking to move it back 10 feet, and looking at the topography and where the trailer sits, and his issue is the trailer is sitting at the beginning of the flat area, but we are going to have traffic by the trailer, and with topography coming right up to the trailer, If we have an area with increased foot traffic at the trailer, we are going to open ourselves up for the start of erosion.

Brendan added, understanding it is just them and not a public beach or anything.

Bill stated he understands that, but he has not put together a condition that keeps the access and the egress from the trailer to road side, or to the North end, or something like that so we don't end up with a sidewalk and a bunch of traffic on the road side of the trailer. You are on the lake because you want to view it. He sees a lot of potential for issues because we are going to have a lot of traffic in topography, on the lake side of the trailer. Stated it is kind of his hang-up. Would love to hear different thoughts from the board.

Russ asked if the door to leave the trailer is going towards the lake?

Brendan yes, the slide goes out to the lake, but the big slide goes to the road.

Dan, added the variance will stay with the land, not with the people owning it, so if you sell the place to a family down the road, with six kids, all of a sudden, traffic increases. It is not just you we are thinking about, we are making history for down the line.

Brendan stated the previous people thought the variance for their camper still applied to this property, but it didn't.

Adam corrected, the only variance that was granted was back in 1983 for the house that was never built.

Brendan and Jacqueline were told they had a camper on the property, got a violation and applied after that and applied for something, and they got it. Brendan stated they kept everything, but have not found that paperwork. They don't really know what the truth is, other than what the County has.

Ken agreed Adam's file should show everything if it exists.

Brendan stated he supposed in the long run it would be hard to be approved for a cabin.

The board stated it would be tough.

Brendan also mentioned with not being able to mow the grass, he didn't know how to tackle that.

Adam showed the 2008 permit for an RV on the overhead, and pointed out the permit specifically says the RV must be 150 from the lake, and did not know how the County was able to issue that permit, knowing what we know now.

Brendan added they want to do what is right for the lot, but they also want to groom it and make it nice for themselves.

Adam added, back in those times you had to apply every so often with an expiration date for an RV permit, and it is not so now.

Brendan asked if a variance is granted and you sell the place, the variance goes with it also?

Adam, yes, it goes to the property.

Brendan asked for clarifications on the listed conditions, which Adam explained.

Russ asked if they had been out to the parcel in the summer?

Brendan stated they have only seen pictures during the summer and they bought it last December, however, they did view the property in November and they had it all groomed down by the lake, and obviously they did it against the lake rules.

Russ asked Adam if they moved a camper in, just to stay a couple of days, would they need a permit?

Adam answered they would not need the RV permit if they were not going to be there past ten consecutive days, however, regardless of the time frame, they would still need to meet setbacks.

Brendan stated they would still need an RV permit to leave the camper there, even if the variance was granted. He mentioned they spoke to the DNR and they told him he could have a dock and park a boat, that was fine, no permits from them were needed.

Bill asked if it would be reasonable to table this so the applicants can do some more homework and discuss possibly moving it back and it struck him they were a little uncomfortable with the extent of the no-mow zone down along the lake so it would give them a chance to discuss it amongst themselves and perhaps with staff to come up with a plan for that, so we have something a little different and to re-address it next month.

Brendan was hoping they would be enjoying the property by this time next month and felt they were stuck between a rock and a hard place.

Adam threw in the initial sixty days would be May 2nd, so if we decided at next month's meeting, we would still be within the sixty days. So, if the board wants to table this, you are well within your rights to do so, or you can make a decision.

Ken made the motion to table the application, and suggested the applicants sit down and reconfigure your plan, so you can get that trailer closer to the road. Whatever it takes, as it is probably not the only way to do it. He suggested to take some time, look at it again, and maybe you have the trailer on the wrong end of the flat spot?

Bill empathized with their time constraints, but if the board were to decide, it will probably not be a positive outcome for this evening. The board is in a difficult spot with the setbacks from each side, we cannot adjust where that trailer sits at this meeting, because the law requires it to be publicly noticed if the request has changed, say "back it up ten feet". It puts the board in a difficult spot. The only way to get out of that, is for you guys to go back and come with a different application or we proceed this evening.

Adam stated this is not another application fee, it is a continuation of the same application.

Bill seconded Ken's motion to table it.

Voice vote, one dissent vote by Dan, motion carried to table the application until May 1, 2025.

No other business for tonight by Russ.

Motion to adjourn by Ken, seconded by Dan, voice vote, no dissent heard, meeting adjourned at 6:59 PM.