

**MINUTES – SPECIAL MEETING
ORONOCO TOWN BOARD
July 15, 2021 5:30 PM**

This special meeting of the Oronoco Town Board meeting was called to order on July 15, 2021 by Chair Charlie Lacy. Present: Supervisors Charlie Lacy, Ken Mergen and Tammy Matzke, Treasurer Kim Stanton, Clerk Lucy Shonyo.

The **Pledge of Allegiance** was recited.

The posted agenda included OR2021-003VAR, applicant Burke, roads and a discussion about changing the town board's monthly meeting date.

OR2021-003VAR, applicant Burke

This action was initially scheduled for July 6, 2021. It was rescheduled due to an error in noticing.

Kristi Gross, Olmsted County Planner, was present to present the background and findings.

This packet prepared by Olmsted County Planning can be found on the Oronoco Township website:

<https://www.oronocotownship-mn.gov/> > Government > Planning & Zoning > Olmsted County Planning & Zoning Packages > OR2021-003VAR. Note: these minutes do not include all details of this action.

Request: The request is for a variance #OR2021-003VAR by James Burke. Three variances are requested: 1. Variance to allow a dwelling to be located within a bluff impact zone. 2. Variance to allow a driveway to be located within a bluff impact zone. 3. Variance to allow a dwelling to be located less than the required 100 feet from the Ordinary High-Water Mark for Lake Zumbro.

Location: The property is located in the NW 1/4 of the NW 1/4 Section 2, Oronoco Township. The property lies south of Wabasha County (Zumbro Township Line) and north of Sunset Bay Ln NE.

Zoning: A-2, Agricultural District

Staff Findings:

1. The property is located on Lake Zumbro. Bluffland is only located within the Shoreland Overlay. There are many properties impacted with blufflands along Lake Zumbro and the Zumbro River. The topography is not unique to this property and there is area on the property that a dwelling could be built while meeting bluff setbacks.
2. The extraordinary conditions are created by the landowner in choosing the location for the dwelling. While the applicant stated the area the dwelling would be sited in is plateau, the site does not meet the exception to a bluff. An exception to a bluff must not exceed 18% slope, and the area the dwelling would be sited is 24% slope. A septic system cannot be located on slopes greater than 18%.
3. Building a dwelling on the property is reasonable. The property is a lot of record, however there are locations outside of the bluff impact zone in which to build the dwelling. A variance may be required for a future driveway, but the driveway would need to be located in a manner to not create erosion on the Bluff Impact Zone and be safe for emergency vehicles to access the dwelling.

OR2021-003VAR, continued

4. Granting this variance could have adverse impacts to adjacent properties if the bluff erodes. The general character of the bluff impact zone is to be protected with tree coverage, if a dwelling is built in the proposed location vegetative clearing would be required that could further impact the integrity of the slope.
5. The request is not in harmony with the general purpose and intent of the ordinance as it is written and interpreted. The property is designated Resource Protection-Potential Suburban. This district is to identify areas that are suitable for future development. However Chapter 5 of the Olmsted County Land Use Plan states that areas with significant natural features should be preserved to minimize adverse impacts.

Olmsted County Planning Staff recommends denial of all three variances based on the findings of fact within the staff report.

Nicole E. Lehman, Area Hydrologist, DNR, states “It appears the variance requests are being driven by design preference without regard to shoreland setbacks. For that reason the DNR recommends denial of the variance.”

Planner Gross addressed those present. Bluffland and shoreline standards in relation to this variance request, as well as the definition of a plateau were explained. A map was shown of property contours and elevations. The applicant’s definition of the plateau of the proposed building site does not meet the geological plateau definition. Access to the property is a problem. There is a driveway but the applicant does not have access to it. The township could provide cartway access within township boundaries only. The north part of the property is not in Olmsted County. The proposed location of the dwelling is a problem; there is an alternative acceptable building site on the property.

Planner Gross took questions.

Supervisor Mergen asked about the width required for emergency vehicle access. Planner Gross didn’t know required width specifications. The proposed driveway is about 150’ per applicant Burke. Supervisor Mergen asked if the variance could be approved with conditions specifying best practices be used in grading and building to minimize erosion. Planner Gross noted approval needs supporting findings of fact.

Supervisor Lacy asked what would happen if the grading can’t happen. Planner Gross responded a new application would be required if the proposed road or septic placement doesn’t work. Planner Gross noted an approved variance is attached to the property; there is no expiration.

Chair Lacy opened the public hearing for OR2021-003VAR.

Del Mergen: Will new shoreline standards affect this variance? **Planner Gross:** No, there are no substantial changes from current standards. **Mr. Mergen:** What distance do the contour lines represent on the map? **Planner Gross:** 2’. Darker lines are 10’. **Mr. Mergen:** Does Zumbro Township have the same bluff standards? **Planner Gross:** Yes, they are statewide standards.

OR2021-003VAR, Public Hearing, continued

Sean Kettlekamp, 13359 Sunset Bay Ln NE: Spoke against the variance. The presence of powerlines would require the driveway to hug the shoreline. The map gives no sense of how steep that hill is; the house may end up in the water. Wildlife and the river would be adversely affected.

James Burke, applicant: Property owner and owner of Heartland Homes, experienced with building custom homes on challenging sites. Mark Kuehn, owner to the north, will not permit driveway access. Rob Sawinski, owner to the east, will not allow access through his property. Believes proposed driveway plan has the least effect on the bluff and environment. Driveway will go underneath powerline. Agrees that access is the biggest issue. Proposed house location is on a “natural plateau” but concedes it doesn’t concur with the county’s / state’s definition of a plateau. If the proposed septic system doesn’t work, there are 10 acres to the south that he would “work in conjunction with neighbors” to use as an alternate site. There are issues with the township road. It could be corrected as part of this project. Supervisor Lacy asked if he chose this site for purely aesthetic reasons. Mr. Burke replied that his choice was site specific. To go up the slope would require a longer driveway having an adverse effect on the environment.

Sean Kettlekamp: Must preserve the water, shoreline, fish, wildlife, not just the bluff. Heavy equipment will be required. Hill is steep.

Del Mergen: Property was platted a long time ago to build a house. Nice house on 10 acres with minimal impact. Project might “improve our road.” “That’s what the land was for.”

Sean Kettlekamp: Familiar with history of the area. Challenged Mr. Mergen’s assertion above. “Never meant to have a house on it.” “Road was never meant to go further.”

Chair Lacy reminded participants to address the board, not each other.

Ken Mergen, 13331 Sunset Bay NE: Has lived in the neighborhood 40 years. Building sites on Lake Zumbro are gone. Maintain best construction practices in construction. The grade on Ryan’s Bay Road was just fixed. Proposed access is relatively level. Away from the water means no contamination. Thinks a residence is a good idea. Good way to utilize the property. How do you have access to the lake if you build on the top? Septic system may be a challenge.

Chair Lacy noted that Supervisor Mergen’s comments were as a participant in the public hearing.

Krissa Bedsted, 13261 Sunset Bay Ln: James [Burke] has been wonderful to work with. If development happens, “James is the guy.”

Chair Lacy asked three times for additional comments for or against OR2021-003VAR.

Chair Lacy closed the public hearing.

There was discussion about Supervisor Mergen recusing himself given he lives in the area where the variance is being sought. Planner Gross noted that owning property is not a problem so long as the person won’t financially profit. In response to a question Planner Gross indicated a tie vote would be a denial of the variance.

Supervisor Mergen stated he would vote.

OR2021-003VAR, continued

Supervisor Lacy expressed his belief in trying to “help constituents out”, but the fact that there is an alternative building site is a problem. He will vote to deny the variances.

Supervisor Matzke expressed being “torn.”

Supervisor Mergen expressed that the property is unique.

Chair Lacy reopened the public hearing.

Sean Kettlekamp: Stated that Supervisor Mergen will benefit by this variance’s approval. Referred to Del Mergen’s statement that they might get a “better road.”

Del Mergen: “won’t get a better road”, “might get a cul-de-sac”

Sean Kettlekamp: there is a turnaround

James Burke: Cul-de-sac is on Burke property, not a township road. Done by property owner.

Sean Kettlekamp: Ken [Mergen] shouldn’t vote.

Chair Lacy asked three times for additional comments for or against OR2021-003VAR.

Chair Lacy closed the public hearing.

Chair Lacy noted that township roads are the township’s responsibility, not the applicants; and it was Ken’s [Mergen] decision whether to recuse himself.

Supervisor Mergen noted that if the road gets improved it won’t be at township expense.

Supervisor Mergen stated he was staying in.

Supervisor Mergen made a motion to allow variance 1: to allow a dwelling to be built in the Bluff Impact Zone using construction best practices to minimize impact to the surrounding area.

Supervisor Matzke second, motion carried 2 – 1. (Mergen – yes, Matzke - yes, Lacy – no)

[Initially this motion was voted on with the motion not having a second. The motion was restated, seconded, and revoted with the same result.]

Supervisor Mergen made a motion to allow variance 2: to allow a driveway to be built in the Bluff Impact Zone using construction best practices to minimize impact to the surrounding area.

Supervisor Matzke second, motion carried 2 – 1. (Mergen – yes, Matzke - yes, Lacy – no)

Supervisor Mergen made a motion to allow variance 3: to allow a dwelling to be built less than the required 100’ from the Ordinary High Water Mark for Lake Zumbro. Supervisor Matzke second, motion carried 2 – 1. (Mergen – yes, Matzke - yes, Lacy – no)

Chair Lacy asked Planner Gross to create new findings of fact to support the board’s approval.

Planner Gross noted that the DNR could contest the board’s approval.

Planner Gross will have draft findings for the Aug 2 meeting.

Roads

- Scott Schumacher and Tom Rathmann met with homeowners on Cedar Beach Drive affected by water runoff. Work on cutting notches in the road to divert the water and cleaning ditches will start next week. Chris Graves was informed of the paving option at homeowner expense. Homeowners would need to bring the request to the town board.
- Mowing is happening now.
- Mr. Jordahl will be sent a letter asking him to remove cars/vehicles from the road right of way on 105th St. NW by July 23. Vehicles will be towed if not moved by that date.
- **Supervisor Mergen moved to accept the proposal from Rochester Sand & Gravel for repairs of Kapler Ln NW and Gossman Ln NW. Supervisor Matzke second, motion carried 3-0. Clerk Shonyo will contact Rochester Sand & Gravel.** Rochester Sand & Gravel will be asked to repair the pothole on 18th Ave NW (north end) for additional dollars.

The discussion about moving the town board’s monthly meeting date will happen at the August 2 regular town board meeting.

Supervisor Matzke moved to adjourn at 7:25pm. Chair Lacy second, motion carried 3-0.

Respectfully Submitted,

Lucy Shonyo, Clerk

Charlie Lacy, Chair