



## Olmsted County Planning Department

August 2, 2021

### Oronoco Town Board

- Prepared by: Olmsted County Planning Department Staff
- Request: The request is for a variance #OR2021-003VAR by James Burke. The request is a variance to shoreland standards to allow a dwelling to be built in the Bluff Impact Zone and closer than the required setback of 100' from the Ordinary High-Water Level. The request includes a variance to allow a driveway within the Bluff Impact Zone.
- 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

### ACTION ITEMS

Approve the findings of fact to support the approval of the following action:

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a dwelling to be located within a Bluff Impact Zone with the condition that best management practices are used in the construction to minimize impacts to the slope and surrounding properties. Motion carried 2:1.**

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a driveway to be located within a Bluff Impact Zone with the condition that best management practices are used in the construction to minimize impacts to the slope and surrounding properties. Motion carried 2:1.**

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a dwelling to be located 50 feet from the Ordinary High Water Level for Lake Zumbro with the condition that best management practices are used in the construction to minimize impacts to the slop and surrounding properties. Motion carried 2:1.**

## BACKGROUND INFORMATION

### Background:

The Oronoco Township Board held a public hearing on July 15, 2021 for a request by James Burke for three variance that would allow a dwelling to be built within a Bluff Impact Zone, closer than the required setback to the Ordinary High Water Level (OHWL), and to allow the driveway to be located within the Bluff Impact Zone. After public testimony and Board deliberation, the Board made the following motions:

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a dwelling to be located within a bluff impact zone with the condition that best management practices are used in the construction to minimize impacts to the slope and surrounding properties. Motion carried 2:1.**

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a driveway to be located within a bluff impact zone with the condition that best management practices are used in the construction to minimize impacts to the slope and surrounding properties. Motion carried 2:1.**

**Motion by Mr. Mergen seconded by Ms. Matzke to approve the variance to allow a dwelling to be located 50 feet from the Ordinary High Water Level Mark for Lake Zumbro with the condition that best management practices are used in the construction to minimize impacts to the slop and surrounding properties. Motion carried 2:1.**

Chair Lacey then directed Planning staff to create Findings and bring them back to the next Town Board meeting.

## ANALYSIS AND FINDINGS

### Staff Findings:

A. Criteria for Granting a Variance: A variance may be granted only when the applicant for the variance establishes that there are practical difficulties in complying with the official control. Economic considerations do not constitute practical difficulties. The Oronoco Board of Adjustment must find evidence that all of the following facts and conditions exist:

1. There are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district;

**The property is located on Lake Zumbro. There is a plateau in the area of the proposed dwelling that would allow a fairly level driveway to be built. The Building site would be following the contours of the adjacent road and minimal grading will be necessary to create a building pad. Adversely a long driveway to the other buildable sites on the property would cause**

**more impacts to the Bluff Impact Zone than the proposed dwelling and associated driveway.**

2. The extraordinary conditions or circumstances are due to circumstances unique to the property not created by the landowner;

**The plateau is of sufficient size to support the dwelling. The proposal is about 30 feet above the water and would not create negative impacts to the shoreline.**

3. The variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that the property can be used in a reasonable manner not permitted by the ordinance;

**Building a dwelling on the property is reasonable. The property is a lot of record.**

4. The variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, and will not alter the essential character of the locality;

**The variance will not be materially detrimental to the public welfare. The applicant will do the minimum amount necessary to create a building site and driveway. The proposed driveway location would be less impactful than running one up the steep slope to get to a building site at the top of the bluff. Vegetation management standards will require the minimum amount of vegetation removed for the building.**

5. The variance is in harmony with the general purpose and intent of this ordinance; and

**The request is 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.**

When deciding a variance to the Shoreland District or the River Corridor District regulations, the following additional factors shall be considered:

1. No variance to the standards of the shoreland district or river corridor district shall have the effect of allowing in any district uses prohibited in that district.

**A dwelling with a driveway is a permitted use and the request would not allow a use that is not permitted in the zoning district.**

2. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area.

**The proposed dwelling site is not impacted by the floodplain. The request would not lower the degree of flood protection.**

3. No variance in the shoreland district or river corridor district shall permit standards lower than those required by State law.

**The request is varying the standard in State law to allow the exception of the Bluff Impact Zone to 24% slope for this property.**

4. In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks.

**The property to the south has a dwelling closer to the OHWL than the proposed dwelling. The OHWL setback variance will only be necessary if the dwelling is permitted in the Bluff Impact Zone.**

5. In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property.

**The location of the plateau is such that it requires a variance to the OHWL setback.**

6. Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks may be reduced by one-third (1/3).

**The request is not for a septic system to be located closer to the OHWL at this time. Sewage treatment systems cannot be located on slopes greater than 18%.**

7. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

**The applicant has stated if a sewage treatment system cannot be located near the dwelling due to slope, it can be located on the adjacent property to the south. Planning Staff has estimated the septic would be over 500 feet from the proposed dwelling location.**

8. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area

**The request is not to allow the dwelling to be located lower than the Regulatory Flood Protection Elevation.**

### **Staff Recommendation**

Planning Staff recommends approving the above-mentioned findings to be attached to the actions of the July 15, 2021 meeting.