



Hermantown Board of Appeals & Adjustments Meeting September 10, 2024

Hermantown's upcoming Board of Appeals and Adjustment's meeting will include both remote access and in-person access to Council Chambers. The remote access will be available through the platform, "Zoom," which allows the public to view and participate in the meeting via phone or computer. Interested parties can also choose to attend the Board of Appeals and Adjustment meetings in person at City Hall.

Remote access to the 5:00 pm Board of Appeals and Adjustment Meeting will be available at:

<https://us02web.zoom.us/j/84616325612?pwd=QU1JY2FSSStEcEhQblhCRVNkM2wrdz09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 846 1632 5612 and the passcode of 608442. A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- It is a challenging situation for all of us, so grace and understanding are appreciated.

CITY OF HERMANTOWN
BOARD OF APPEALS & ADJUSTMENTS

Agenda
September 10, 2024
5:00 PM

1. ROLL CALL

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES

3A. September 12, 2023 regular meeting.

4. PUBLIC DISCUSSION – Public comment on any item not otherwise listed on the agenda.

5. PUBLIC HEARING

5A. An application by Todd Pelkey/Northwoods Sod for a 50-foot variance request from the 150-foot building setback associated with a Natural Environment Shoreland Area. The property is located at 3688 Midway Road and is located in a BLM, Business Light Manufacturing zoning district.

6. CONTINUING BUSINESS

7. NEW BUSINESS

8. COMMUNICATIONS

9. COMMISSION MEMBER REPORTS

Cyndy Reno –
Joe Peterson –
Gerald Wallace –
Michael Boese –
James Nelson –
Brian LeBlanc –

ADJOURN

CITY OF HERMANTOWN
BOARD OF APPEALS & ADJUSTMENTS
September 12, 2023 Meeting Summary
5:00 PM

1. ROLL CALL

Members Present: Joe Peterson; James Nelson; Michael Boese; and Councilor Brian LeBlanc

Members Absent: Cyndy Reno and Gerald Wallace

Others Present: Eric Johnson, Community Development Director; and James Savre, 3649 Ugstad Rd.

2. APPROVAL OF AGENDA

Motion made by Michael Boese to approve the September 12, 2023 agenda as presented. Seconded by James Nelson. Motion carried.

3. APPROVAL OF MINUTES

Motion made by Brian LeBlanc to approve the June 13, 2023 minutes as presented. Seconded by James Nelson. Motion carried.

4. PUBLIC DISCUSSION

None.

5. PUBLIC HEARING

5.A An application by James Savre for a 33-foot variance to the 50' front yard structure setback associated with a R-3, Residential zoned property for the purpose of installing two solar arrays/panels. The property is located at 3649 Ugstad Road.

Eric Johnson, Community Development Director presented that applicant, James Savre, owns a 10-acre parcel at 3649 Ugstad Road as well as an additional 10 acres directly to the north. The applicant is looking to install solar panels in the front portion of his property in an area that is generally free to trees and has favorable exposure.

The proposed project is two sets of panels, installed perpendicular to Ugstad Road with a distance of 25 feet between each panel section with each section being approximately 30 feet in length. The City views the solar panels as structures which requires a 50 setback from the right of way line associated with Ugstad Road.

The applicant states that the contractor (Energy Plus) informed him that a rooftop installation is not feasible as the existing home faces southwest and is shaded by existing trees. Alternative locations within the property are either too hilly, have wetlands, a large number of trees or are too far from the house and electric meter to be practical. Thus, the application for the solar panels to be located in the front yard.

The applicant further states that a location south of the existing driveway, 50 feet from the property line would require the removal of two large shade trees and potentially encroaching on the existing mound system. This location would also receive shade from the trees located on the neighbor's property to the south.

North of the driveway, 50 feet from the property line, involves removing numerous trees and leveling of the ground surface. In addition, it appears that the existing home would cast shade of the panels in this location.

Discussion ensued regarding ability to reconfigure the solar array and place it in different portions of the property.

Motion made by Michael Boese to approve the application by James Savre for a 25-foot variance to the 50' front yard structure setback associated with a R-3, Residential zoned property for the purpose of installing two solar arrays/panels. Seconded by Joseph Peterson. Motion carried 3 to 0.

5B. An application by PPT, LLC for a 5-foot variance to the 35' front yard structure setback associated with a C, Commercial zoned property for the purpose of constructing a 930 square foot building addition. The property is located at 4490 Sugar Maple Drive.

Eric advised the board that the applicant, PPT, LLC, owns the property located at 4490 Sugar Maple Drive. The applicant has been in discussion with his tenant, Valentini's on a possible building expansion for their restaurant. The proposed expansion consists of a dedicated entry and waiting area, a meeting room and additional storage. The existing building meets Sugar Maple Drive at an angle with the proposed building expansion requiring a 5' variance from the 35' front yard building setback and the area of building within the variance area being approximately 6' x 14' (45 square feet).

Motion made by Michael Boese to approve the application by PPT, LLC for a 5-foot variance to the 35' front yard structure setback associated with a C, Commercial zoned property for the purpose of constructing a 930 square foot building addition. Seconded by James Nelson. Motion carried 3 to 0.

6. CONTINUING BUSINESS

7. NEW BUSINESS

Eric Johnson, Community Development Director gave an update on draft AUAR document and where comments could be submitted.

8. COMMUNICATIONS

None.

9. COMMISSION MEMBER REPORTS

Joe Peterson – None
Cyndy Reno – Absent
Michael Boese – None
Gerald Wallace – Absent
James Nelson – None
Brian LeBlanc – None

ADJOURN

Motion made by James Nelson to adjourn the meeting. Seconded by Michael Boese. Meeting adjourned at 6:30 pm.

Officiated by:

Transcribed by:

Joe Peterson, Chairman

Mary Melde, Administrative Assistant



Hermantown Board of Appeals and Adjustments

Meeting Date: September 10, 2024

Agenda Item: 5A

5A. Variance Application for a 50 foot reduction of the 150 foot building setback within a Natural Environment Shoreland Area in a BLM, Business and Light Manufacturing zoning district

Applicant: Northwoods Sod/Todd Pelkey
Case No.: 2024-51-VAR
Staff Contact: Eric Johnson, Community Development Director
Request: Request a 100 foot variance from the building setback within a Natural Environment Shoreland Area in a BLM, Business Light Manufacturing zoning district

RECOMMENDED ACTION:

Board of Appeals consideration of the Variance, subject to included conditions.

DESCRIPTION OF REQUEST:

Requested is approval of a 100 foot variance from the building setback within a Natural Environment Shoreland Area in a BLM, Business Light Manufacturing zoning district

SITE INFORMATION:

Parcel Size: 5.0 acres
Legal Access: 3688 Midway Road
Wetlands: Yes, delineated in 2019
Existing Zoning: BLM, Business Light Manufacturing
Airport Overlay: None
Shoreland Overlay: Yes – Natural Environment Shoreland Area
Comprehensive Plan: Commercial

Development Details

The applicant (Northwoods Sod/Todd Pelkey) owns the property located at 3688 Midway Road and operates Northwoods Sod at the property. The applicant purchased this property in 2018 and moved his business to the property with its existing building.

As part of a potential expansion, the applicant had a wetland delineation performed in 2019. The purpose of the expansion was to create a level pad area for storage of vehicles as well as material associated with the landscape business.

At the time of the delineation, an unmapped tributary to the Midway River which was confirmed by the MN DNR. This tributary carries a Natural Environment Shoreland Overlay Area with it and requires the issuance of a Special Use Permit for any grading/buildings, land disturbance, etc. within the area.

The Natural Environment Shoreland Area identifies a 200 foot building setback form the ordinary high water level (OHWL) of the tributary. The applicant contacted the City in early 2024 to discuss the construction of a 6,750 square foot building on the property for the purpose of storing vehicles and supplies. This building expansion is proposed on the graded pad area originally done in 2019 and within the shoreland area and is approximately 100 feet from the OHWL.

City staff contacted the MN DNR about this request in order to ascertain their position on a potential variance request. MN DNR staff stated that they would not be opposed to the variance as long as the applicant addresses stormwater within associated with the project.

The applicant engaged MSA Professionals to prepare a stormwater plan with a proposed pond being located on the east side of the proposed structure. The City Engineer has reviewed the pond design and is supportive of the design.

R-3, District Requirements

The site is in the BLM, Business Light Manufacturing Zoning District. The project is an allowed use under Section 535.03.11, a contractor’s shop and storage yard is a permitted use with conditions. In addition, upon discussion by the Hermantown TEP and verified by the MN DNR in 2019, there is an unmapped tributary of the Midway River on the property which requires a 200’ building setback from the Ordinary High Water Level (OHWL). The project meets all the zoning requirements except building setback from the OHWL, which is the subject of the variance request.

Dimensional Requirements	Natural Environment Shoreland	Proposed Project
Area	80,000 SF	5 acres
Lot width	200’	270’ minimum
Front yard	20’	Greater than 20’
Rear Yard	20’	20’ minimum
Side yard	20’	20’ minimum
Building setback from OHWL	200’	100’ proposed

General Variance Requirements

Variance applications are considered by the Board of Appeals and can be appealed to the City Council by either an aggrieved applicant or by other citizens of the City who may be in opposition to the Board of Appeals action.

A variance is requested from Section 555 – SH, Shoreland Overlay Zone of the Hermantown Zoning Regulations. Subsection 555.06.1 Shoreland Standards states that the building setback is 200’ from the OHWL.

Existing Conditions

The 5.0 acre property contains an existing building located in the northwest corner of the property. There is an existing unmapped tributary of the Midway River with a corresponding wetland area which is located approximately 100' to the north of the tributary with the majority of the southeast portion of the site being wetland. The location of the proposed structure is in an upland area with no new wetland impacts being proposed as part of this project.

Justification and Mitigation

1. (Justification) The applicant is proposing the future structure to be located to the north of the existing tributary in order to utilize existing upland area. The structure placement is 100' from the OHWL and requires a 100' variance from the requirements, however there will not be any impervious surfaces with 50' of the OHWL per Section 555.08.1.
2. (Mitigation) By constructing the structure closer to the required building setback, the applicant will not disturb any wetland.

Per Section 615 – Governing Criteria, Variances of the Hermantown Zoning Regulations variances may only be permitted when all of the following criteria are satisfied:

1. The variance is in harmony with the general purposes and intent of the Hermantown zoning code.
The purpose of the Shoreland Overlay Zone is to protect public waterways. The proposed project keeps the structures north of the existing tributary and keeping all impervious surfaces a minimum of 50' from the ordinary high water level
2. The variance is consistent with the Comprehensive Plan.
The variance is consistent with the Goals of the Comprehensive Plan by creating commercial development within the City.
3. There are practical difficulties in complying with the Hermantown zoning code.
 - a. Property owner proposes to use the property in a reasonable manner permitted by the Hermantown Zoning Code.
The proposed use is similar in use (commercial) and intensity to other existing uses in the zoning district.

The variance will protect a larger amount of existing wetland as well as avoid potential disturbance to the unmapped tributary.
 - b. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
The City allows for the use of property in order to maximize the buildable area and still adhere to setbacks from property lines. Due to the location of the unmapped creek and wetlands, building on any other portion of the lot would require additional impervious surface, fill, and grading in the Shoreland Overlay Zone and wetland impacts than the proposed location.

- c. The variance, if granted will not alter the essential character of the locality.
The proposed use is similar in use (commercial) and intensity to other existing uses in the zoning district. The variance will allow the applicant to utilize upland area on his property and not create any new wetland impacts.

Findings of Fact and Recommendations

Staff finds the application meets the requirements for a Variance and recommends approval of the Variance, subject to the findings of the Staff Report and the following conditions:

1. The 100' Variance from the 200' building setback is approved.
2. The proposal meets the requirements of Section 535, "BLM, Business Light Manufacturing" of the Hermantown Zoning Ordinance.
3. The proposal meets the requirements of Chapter 6, "Variances" of the Hermantown Zoning Ordinance.
4. The applicant shall maintain a 50' undisturbed buffer from the Ordinary High Water Level (OHWL) from the western bank of the existing unmapped creek. No disturbances of the bank of the unmapped creek are permitted.
5. The applicant shall sign a consent form assenting to all conditions of this approval.

The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS:

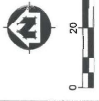
- Location Map
- Shoreland Map
- Proposed Site/Stormwater Plan

Location Map



Shoreland Map





PROJECT NO. 22554000		SHEET 2	
GRADING PLAN			
STORMWATER POND NORTHWOODS SOD HERMANTOWN, MINNESOTA			
MSA MSA ENGINEERING ARCHITECTURE SURVEYING PLANNING PLANNING ENVIRONMENTAL 333 7th Street, Suite 100, Duluth, MN 55812 (218) 725-1000 www.msa-engineers.com			
OWNER Mike's Recycling and Services 6629 Duluth, MN		LICENSED PROFESSIONAL ENGINEER License No. 66299 Jeff Evers	
I, JEFF EVERS, A LICENSED PROFESSIONAL ENGINEER, CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I AM A duly licensed professional engineer under the laws of the State of Minnesota.			
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