

Minutes of the Todd County Board of Adjustment Meeting

July 23rd, 2026

Completed by: Sue Bertrand P&Z Staff

Site Visits conducted by Adam Ossefoort and Ken Hovet on July 7, 2026.

Meeting attended by board members: Chair, Russ VanDenheuvel, Vice Chair Bill Berscheit, Mike Soukup, alternate Rick Johnson 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. and the Pledge of Allegiance was recited. Each board member introduced themselves and Russ explained the process for those attending.

Ken motioned to approve the agenda and Bill, seconded. voice vote, no dissent heard. Motion carried.

Rick motioned to have the June 25th BOA meeting minutes approved. Mike seconded the motion. Voice vote, no dissent heard. Motion carried.

AGENDA ITEM 1: Mike Pogreba – PID 24-0032000 – Turtle Creek Township

Request(s):

1. Request to reduce the lake setback from 150' to 113' for a ten-foot addition to existing home.

Mike Pogreba and Adam Becker were present as the applicants.

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. Applicant shall maintain no less than 50% vegetative screening as viewed from the lake during leaf on conditions.
2. Submittal of an erosion control plan to address existing erosion around the building site.
3. Applicant shall maintain no less than a 20' vegetated buffer (no mow zone) along the lake frontage of the property.
4. Applicant shall abide by all other applicable federal, state, and local standards.

Mike confirmed the staff report was accurate.

Site visit report was given by Ken. This report may be viewed in full upon request at the Planning and Zoning office.

Correspondence received: None.

Public comment: None.

Board discussion:

Russ asked how old the residence is?

Mike explained he was born and raised on the adjoining farm in 1967 but the house was there many years before that. There was a partial fire so the existing residence on the foundation was removed, guessing 30 years ago and an Alexander home was brought in and placed on the exact foundation. The residence has been here nearly 100 years.

Russ, when was the addition built?

Mike explained last fall, and when they became aware they had made a mistake, they came to the County. Where he is from, they don't have minimum standards and no permits and didn't realize he needed a permit. He had hired a licensed contractor to do the work, assuming all was good.

Bill, how deep is the no-mow zone?

Ken a good 20' but it varies, has cattails and a very woody, excellent edge.

Bill, in regard to the erosion, it is best to begin where it starts at the driveway and moving down. Have you done any homework and have a plan to deal with that?

Mike explained the driveway has run off on both sides, with construction in the recent months and he not being there to maintain it. He can dress that up and get the water to run off the sides instead of rolling straight down entire driveway and across the concrete and into the yard. Has a load of topsoil coming tomorrow to get that seeded right away. The topography has not changed due to the addition, it is the disturbance that needs to be corrected, and he has plans to do that.

Bill, very good answer, when we grant a variance, it goes with the property not with the landowner and stated if the traffic increases significantly, we will probably be back in an erosion situation again. Suggested a water bar that will last a lifetime. We need to address erosion on the rest of the lot, as well.

Rick agreed with Bill and all conditions suggested are needed. All suggested conditions are needed. #2 he assumes you can either come up with a plan or hire a professional that is reviewed and approved. He relies on the staff as they are the professionals. Asked Adam if that is alright to state submission and approval as part of the condition?

Adam, yes, he can adjust the condition to be more specific.

Bill wanted to see the driveway included in the conditions.

Rick asked if the erosion on the driveway is all new because of the construction?

Mike stated the driveway coming in has historically been grassy, however, there has been concrete and construction trucks, and it does need to be addressed, but he is comfortable with restoring it back to what it was and correcting all that.

Russ asked if the driveway was grass and now cement?

Mike stated there has always been concrete between the house and garage, but the driveway has always been a sandy grass drive.

Adam stated site visit was after significant rain and after construction disturbance.

Mike added there were trees broke in half during the storms in recent months.

Bill made the motion to grant at 133' not the 113' listed earlier, with all conditions posted by staff. An erosion control plan in place that runs with the property and stays with the property.

Ken seconded, with a correction to #3 "maintain no less than..."

Proposed conditions:

1. Applicant shall maintain no less than 50% vegetative screening as viewed from the lake during leaf on conditions.
2. Submittal of an erosion control plan to address existing erosion around the building site and the driveway. Erosion control plan shall be approved by Planning and Zoning prior to issuance of land use permitting.
3. Applicant shall maintain no less than a 20' vegetated buffer (no mow zone) along the lake frontage of the property.
4. Applicant shall abide by all other applicable federal, state, and local standards.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Mike Soukep	Yes
Bill Berscheit	Yes
Ken Hovet	Yes
Rick Johnson	Yes
Russ VanDenheuvel	Yes

Motion carried.

AGENDA ITEM 2: Bruce & Jackie Hegg – PID: 03-0015400 – Birchdale Township

Request(s):

1. Request to reduce the 150' lake setback to 93' for a dwelling replacement and expansion.

Bruce and Jackie ware present as the applicants.

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. Applicant shall maintain no less than 50% vegetative screening as viewed from the lake during leaf on conditions.
2. Applicant shall maintain now less than a 20' vegetated buffer (no mow zone) along the lake frontage of the property.
3. All erosion controls shall be installed and reviewed by County staff prior to the start of construction.
4. Submittal of a stormwater management plan to address stormwater from the proposed structure prior to land use permitting.
5. Applicant shall abide by all other applicable federal, state, and local standards.

Bruce confirmed the staff report was accurate. The fire presented a total loss of the house even though it does not look like it. The entire center is in the basement, as a total loss. Left with the clothes on his and his wife's back.

Ken reviewed his site visit report. This report may be viewed in full upon request at the Planning and Zoning office. Stated he felt there was a better place to put the house.

Bruce stated his placement of the house is within reason of the sewer, water and the electricity and if he went back farther, he would be in his other buildings. Pointed out 150' mark on the overhead and nearby buildings.

Correspondence received: None.

Public comment: None'

Board discussion:

Bruce explained that he is actually 10' further back from the lake than the burned house was and mentioned how far the water has come up (over 12') since it used to be two lakes and the setback used to be 100'.

Russ mentioned he was familiar with the lake. No matter what, the house will be torn down and start fresh.

Bruce, the house will disappear, no matter what, yes.

Bill stated the burden of proof is 100% on the applicant. You need to convince the board the need for a variance. If moved back and it is fairly close to the white garage, explain what the problem would be.

Bruce stated he would not be able to get into the garage.

Bill, so offset a little, and asked to see the aerial.

Bruce explained on the overhead where the septic and electrical are.

Ken asked what size house are you building?

Jackie stated 46' x 34'.

Ken, what if you turned the house 90 degrees?

Bruce, he could, it doesn't help him much. He will be removing a 10' deck.

More discussion on placement.

Russ, always 150' setback?

Adam, no, originally General Development, then Recreational, then NES.

Ken, we need to get to the minimum variance.

Bill, if we take the emotion out of this and start from the garage and the shed side. How much room do we need? Rotate 90 degrees if that is achievable and start moving to the lake we may come up with as far back from the lake as we can get. Have not put maximum effort into achieving that point. Nobody but the applicants can do that. We, as a board, see more space.

Russ, on the new house, will it have a garage?

Bruce, no, and no basement.

Russ so it can go closer to the driveway.

Bruce, it could be, and he explained elevations, and pointed out the power lines to deal with and the junction box.

More discussion on the placement.

Bruce stated Kevin and Mark Anderson measured the distance from the lake.

Mike Soukup stated still trying to grasp rotating the house to gain, and we are the advocate for the lake and if we can get 12' out of it, that would be a good start.

Bruce has been a good steward in the past, could probably rotate it to be further back.

Russ, can you see the lake from the house?

Jackie, no, other than one window.

Russ, do you use the lake?

Bruce, he used to but not lately. He stated he grew up there, since he was 10 or 11 years old. If there had been no fire, he wouldn't be here.

Adam reminded all, they could still go exact for exact replacement.

Discussion on size of the house.

Russ how much of a drop to the lake?

Bruce about 15' to 20'.

Jackie stated the lake was lower 40 years ago.

Russ, we do have practical difficulty with the house fire, but agrees with the board, we have more room to move back.

Rick, for the board, applicant and the record, you can get a dimensional variance however it must be a property practical difficulty. He doesn't see that. The reason you are here is you lost your home due to the fire. Feels sorry for him and anyone who has had to deal with that. You can replace exact for exact and do not need a variance. What tugs on him, is if you read the spirit and intent of these regulations and why they were written, when you have a non-conforming structure (doesn't meet the 150'), it's legal and that's what you had, it did at one time meet the setback when it was 100', but the regulation is written to let you replace it, improve it, remodel it, but no expansions. It is very clear, if you read the Todd County Regulations and the State regulations, it is very clear: No expansions. It doesn't matter what you had before, if you are starting over with an expansion, you must meet today's rules and regulations, and that is why you are here. Like Russ said earlier, we are a Quasi Judicial Board, and we act in the capacity of a judge, and in order for us to give you a variance from the Todd County Ordinances, there are seven criteria you have to meet and we, as a Quasi Judicial Board, have to deny it, if you do not meet all seven. Looking at the seven criteria, Rick stated, to him, the applicants are not meeting several of them. It will be extremely difficult for him to grant this because of it. Having 56 acres is actually working against you. He is not convinced you cannot put your new home somewhere on that 56 acres and not meet the 150' setback. He also understands all he has heard from them as a practical difficulty is, "There's a building there, there's a power line here...". We, also, as board members can have you move those things as part of our process. That is one of the criteria questions: Is the need for the variance unique to the property, not created by the land owner? All he has heard tonight is how you are squeezed between all of this infrastructure that was created by the property owner and in the past, that is where they wanted it. It is not unique to the property and that fails the criteria question. Another one is: The variance request cannot be based on economic cost alone and all he has heard tonight is: you need the variance because my building is there, my septic is here. Is it not true, those are economic considerations?

Bruce, I am not made out of money.

Rick stated he understands that, but he is only acting in his capacity and asked Bruce if he could state for the record, why you need the variance, other than economic reasons?

Bruce, basically not.

Rick, that is criteria #6, "Does the need for the variance involve more than economic considerations?" If we comply with the County Ordinances, he would have to say no on that question. We have taken economic reasons into consideration before, but the big hang up is you are asking for 133' and you have already stated you could probably tweak another 12' away from the lake. We all believe you can tweak more.

Bruce, give me a number.

Rick, this is not a negotiation process. We need to vote on 133'.

Bill corrected stating he is asking for 93'.

Rick, even more. Have you complied with the criteria that is in the County ordinances? That is what we need to vote on, to give you the variance. There are five board members, and he is just one of them, but he is not feeling it.

Russ suggested you could ask to table this application and see if you can come up with a minimum distance for the setback measurement, after hearing how the board stands now.

Rick stated you may find you can remove a building and not need a variance. You would only need the land use permit and not need to come back or replace exact for exact and not need to come back. Wanted to be clear to the applicants on how he stands.

Mike agreed, if we vote on something tonight and it gets denied, it is final, if you decide to table it and come back in a month, you haven't lost your application fee, just sharpen your pencils and give it another try.

Adam stated we can assist Bruce with that. We will schedule a time to meet with them and come up with the minimum necessary, based on the criteria and help zero that in. We can line that up.

Bruce stated he would like to table it.

Bill motioned to accept the request to table the application until next month, Mike seconded, voice vote, no dissent heard, motion carried.

Ken motioned to adjourn and Bill seconded. Voice vote to adjourn. No dissention heard. Motion carried and the meeting adjourned at 7:03 PM.