

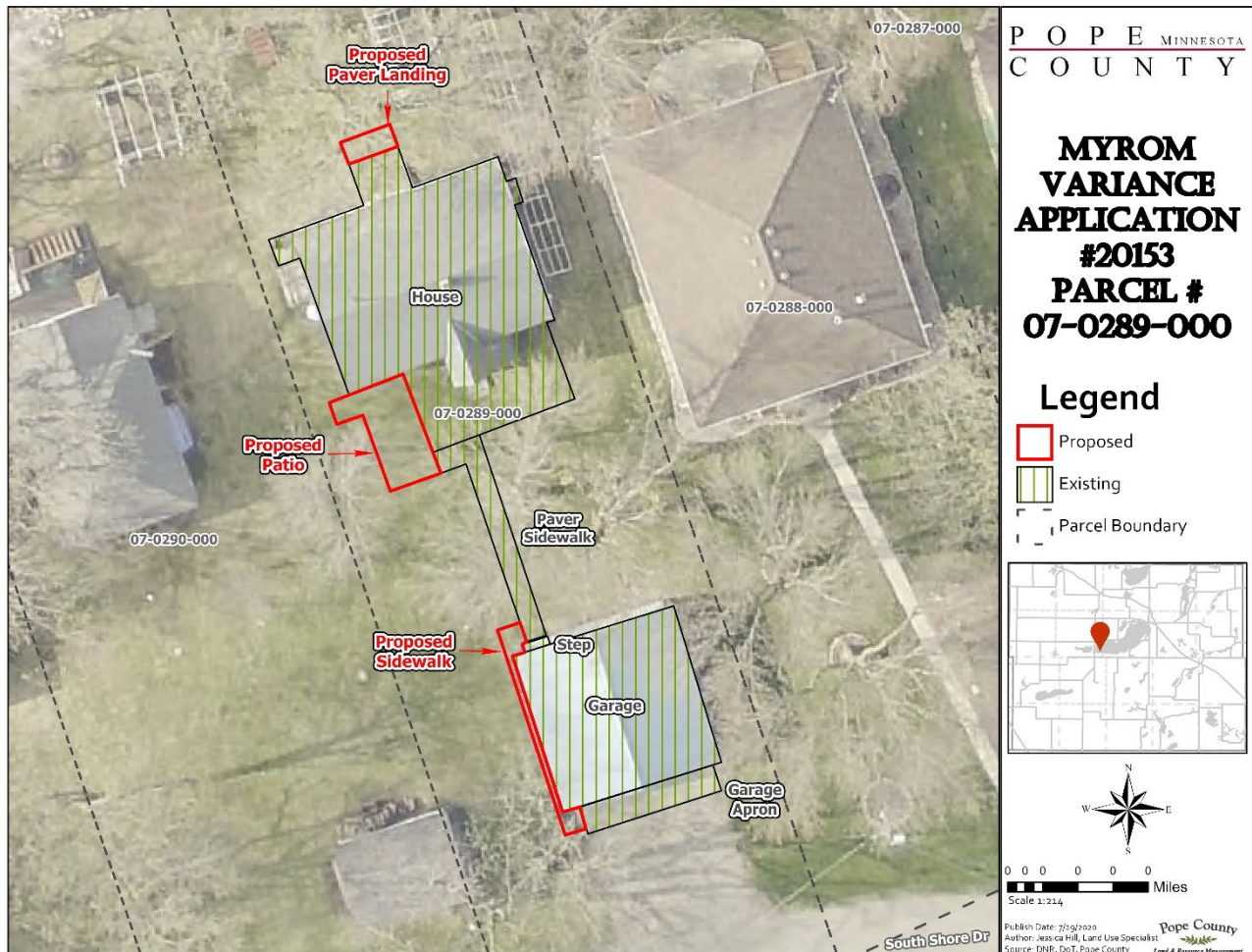
## STAFF REPORT

### Applicant Information

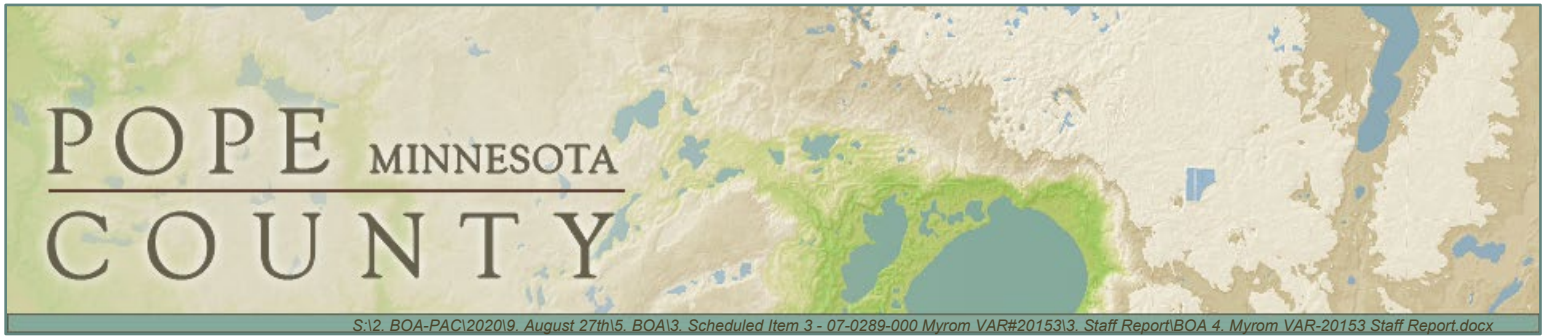
**Applicant:** Curtis & Katherine Myrom

**Application:** Variance from the impervious surface standard in a Shoreland-General Development (S-GD) zoning district where 25% is the standards per section 10.10 of the Pope County Land Use Controls Ordinance.

**Location:** Lot 9, P.E.B.'s Lake Shore Lots, Section 36, Township 125 (White Bear Lake), Range 39, Pope County, Minnesota.



DISCLAIMER: THIS MAP IS NOT A SUBSTITUTE FOR ACCURATE FIELD SURVEYS OR FOR LOCATING ACTUAL PROPERTY LINES AND ANY ADJACENT FEATURES.



## Background

The applicant is requesting consideration to allow for impervious surface coverage in excess of the 25% threshold as specified in the Pope County Land Use Controls Ordinance. The proposed scope of work includes adding a 33' x 40" sidewalk on the west side of the garage, widening and improving of approximately 36' of walkway between the garage and the cabin, adding a new patio (~136 sq. ft.) of off the south east corner of the cabin and adding a 8' x 40" landing on the lakeward side of the cabin. As of 2018, the impervious surface area was calculated at 24.94%. At some point thereafter a porous paver walkway had been installed which brings the existing impervious surface area to 27.64%. The proposed condition will result in an impervious surface coverage of 31.3%. However, the scope of work includes creating stormwater retention and treatment areas below walkways and patio areas. Based upon the stormwater management plan as submitted by Landteam Incorporated, the effective runoff rate will be equivalent to that of a 15.1% impervious surface coverage if the mitigation strategy is implemented as designed.

## Applicable Statutes

- **MN Statute Chapter 394 Planning, Development, Zoning** (*enabling legislation*)
- **Pope County Land Use Controls Ordinance**

Section 10.10 Impervious Surface:

*In addition to the listed requirements, no lot shall be covered by more than twenty-five (25) per cent with impervious surface. The County may vary the lot size pursuant to DNR standards where the lot is served by a public sewer system. No part of any lot less than thirty (30) feet wide, or on which there is easement or right-of-way for public or private travel, shall be used in computing minimum lot area.*

Section 10.24 Stormwater Management;

*B. Specific Standards.*

1. *Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area or twenty (20) percent of the lot area in Natural Environment Shoreland Zoning.*

Section 11.6 Variance From Standards

- **Ordinance #5, Pope County Floodplain Management Ordinance**

Section 4.0 Permitted Uses, Standards, and Flood Plain Evaluation

Section 4.2: Standards For Flood Plain Permitted Uses

Section 7: Administration



- **Minnesota Administrative Rules chapter 6120.3900 subp. 3 Variances:**

*Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.*

## Staff Comments

Staff offers the following comments for consideration:

A Stormwater Management Plan has been submitted and has been reviewed by Land & Resource Management staff. In regard to its purported result, we find no basis for disagreeing with the data or conclusions as submitted.

Based on Minnesota Statute 394.27 subd. 7: A variance may be granted if it is in harmony with the general purposes and intent of the official control and when the variance is consistent with the comprehensive plan. A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner “practical difficulties.” The standard for establishing a Practical Difficulty is as follows:

### 1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, this variance application is a request to exceed the impervious surface coverage limit so the owner may install a patio and walk way areas that will aid in their ability to safely access and enjoy their property. The applicant has indicated that both he and his wife have difficulties with uneven walking surfaces. Questions to be considered include:

- is it reasonable to have safe/level walking surfaces?
- is the impact of exceeding the 25% impervious surface coverage being properly mitigated?



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## 2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering this variance request to exceed the impervious surface limit, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees that prevent the use from being in compliance.

## 3. Essential Character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about this variance which relates to exceeding the impervious surface coverage limit, how will the use of the property look in relationship to others in the neighborhood, and if that fits in with the character of the area.

## Staff Recommendation

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Having reviewed and considered the application, local ordinances, state statutes, and all comments received, staff does not object to the issuance of a variance in this case that would allow for safe walking surfaces between the garage and the cabin and landing areas near the entrances to the cabin structure. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider. If the Board of Adjustment does grant a variance to the applicant Staff recommends that the following condition be considered:

1. That the variance to the impervious surface standard of 25% is limited to the scope of work as presented with the application and is specific to the areas as identified in the submitted stormwater management plan dated July 2020.
2. Construction of the stormwater collection and treatment system shall be according to the design prepared by a professional engineer, landscape architect, or certified professional in stormwater quality and approved by the Land & Resource Management Director prior to installation;
3. Downspouts are to be directed toward the pervious paver areas for retention of stormwater;
4. Prior to issuance of permit to construct stormwater collections system, Owner to agree to a management plan for the stormwater treatment basin system as prepared by a landscape professional;
5. That the variance is invalid, or expires, if the holder/Owner has not substantially completed the stormwater collection system within one year of issuance of granting the variance;



6. If variance expires due to noncompliance with construction of the stormwater collection system, then Owner is to abate excess impervious surface areas upon receipt of notice of violation; and
7. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.

## Staff Findings

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The Staff proposes the following findings of fact for consideration by the Board of Adjustment:

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:** The purpose of the stormwater management regulations in the County Ordinance are to limit impacts to surface water quality and habitat by development that generates additional stormwater runoff. Stormwater runoff from impervious surfaces carries sediment and nutrients from those surfaces as well as nutrients and pollutants from lawns and landscaping into the adjacent lakes and wetlands. By limiting the amount of impervious surface on a lot, these impacts from stormwater may also be limited. Emphasis on preventing non-point source pollution from stormwater in urban areas has led to the development of many best management practices that are designed to capture and treat runoff. By implementing these types of practices, the impacts of stormwater generated by a lot that is over-impervious may be mitigated and the intent of the official controls can be met.
2. **Use of property/structure is a reasonable use:** Residential use, including having level and safe walkways, in the shoreland zoning district is a reasonable and typical use.
3. **Character of locality and detriment to neighboring properties:** Granting the variance to allow the parcel to be over-impervious will not change the character of the locality, but it could detrimentally impact the lake and neighboring properties if the additional runoff from the impervious surfaces is not controlled. For this reason, staff has recommended conditions that are intended to mitigate impacts from stormwater on both neighboring properties and on lake water quality and habitat.
4. **Plight of the landowner is due to circumstances unique to the property and not self-created:** The parcel is currently developed in excess of the impervious surface coverage limit. The additional development of the property further increases the impervious surface coverage. The routing of rainwater runoff from the residential structure to the pervious paver areas that have been designed with storage capacity, will reduce the rate and amount of stormwater runoff that impacts Lake Minnewaska.

## REPORT APPENDIX

- **Routing Sheet** (*Comments, concerns and conditions*)
- **Public Notice**
- **Supplemental Information**
  - **Attachment 1:** *Variance Application (Curtis & Katherine Myrom, 16 July 2020)*
  - **Attachment 2:** *Site Diagrams (Curtis & Katherine Myrom, 16 July 2020)*
  - **Attachment 3:** *Stormwater Management Plan (Landteam Incorporated, 18 June 2020)*
  - **Attachment 4:** *Shoreland & Floodplain Variance Guidance Series: Impervious Surfaces (MN DNR, 10 October 2012)*



## Routing Sheet

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### *Comments, Concerns and Conditions*

#### Agency

MN DNR

SWCD-Pope

#### County Department

Attorney

Recorder

*Please see MN Statute 507.093 Standards for documents to be recorded or filed for recording. Our records show that the current property owner for the above parcel is Curtis and Katherine Myrom Trust per recorded document #248516; in which can be found in our Laredo land records program.*

#### Township

White Bear Lake

#### Other Comments Received



## Public Notice

**POPE COUNTY LAND & RESOURCE MANAGEMENT  
POPE COUNTY COURTHOUSE  
130 E. MINNESOTA AVENUE, SUITE 113  
GLENWOOD, MINNESOTA 56334  
(320) 634-7791**

### **POPE COUNTY BOARD OF ADJUSTMENT NOTICE OF PUBLIC HEARING FOR VARIANCE REQUEST**

**Notice is hereby given** that access and participation relating to the Board of Adjustment meeting and Public Hearing (see below) to be held at 6:00 pm or shortly thereafter on Thursday, August 27<sup>th</sup>, 2020 in the County Courthouse Community Room to consider the following agenda items.

As of the drafting of this public notice, a declared Peacetime Emergency in response to the spread of COVID-19 (coronavirus) in MN is still in effect. In an effort to comply with MDH recommendations issued with the declared Peacetime Emergency and established social distancing guidelines, the Board of Adjustment will conduct this meeting by use of telephone and video conferencing technology. Citizens will be able to participate via **telephone or video technology as posted on the Pope County Land & Resource Management website calendar**.. In addition, a limited number of citizens including the individual applicants, will be afforded in person access via the Community Room located in the Pope County Courthouse, provided that social distancing guidelines and etiquette can be maintained.

Public participation will include:

- 1) an opportunity to submit written concerns and comment prior to the scheduled meeting. All such communications were shared with the Board of Adjustment prior to or during the meeting;
- 2) an opportunity to observe and/or participate in the proceedings of the Board of Adjustment meeting;
- 3) an opportunity to review the staff prepared report via Pope County website.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. Thank you for your patience and consideration in this matter.

**Description of Request:** Variance hearing on the application by Curtis & Katherine Myrom, if granted would allow variance from the impervious surface standard in a Shoreland-General Development (S-GD) zoning district where 25% is the standards per section 10.10 of the Pope County Land Use Controls Ordinance.

**Legal Description/Site Location:** Lot 9, P.E.B.'s Lake Shore Lots, Section 36, Township 125 (White Bear Lake), Range 39, Pope County, Minnesota.

**Dated:** August 7, 2020

**By:** David Green, Director, Land & Resource Management

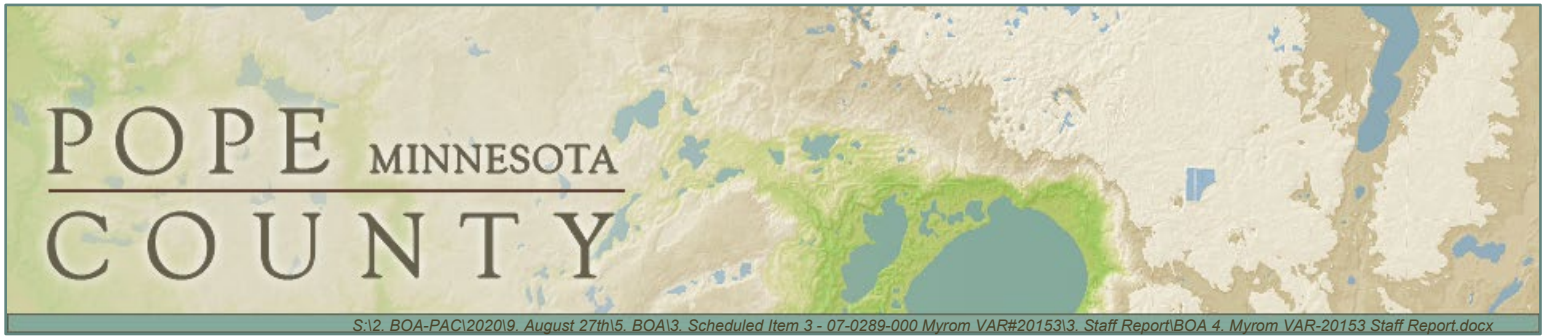




## Supplemental Information

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**Supplemental Information Attachment 1:**  
*Variance Application (Curtis & Katherine Myrom, 16 July 2020)*



**Supplemental Information Attachment 2:**

***Site Drainage Areas (Curtis & Katherine Myrom, 16 July 2020)***



**Supplemental Information Attachment 3:**  
***Stormwater Management Plan (Landteam Incorporated, July 2020)***



**Supplemental Information Attachment 4:**

***Shoreland & Floodplain Variance Guidance Series: Impervious Surfaces (MN DNR, 10 October 2012)***