

Draft
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
May 15, 2018

- (1) Chairman Ezell called the meeting to order at 7:00 p.m.
- (2) Members Present: Jack Ezell, John Manninen, Howard Eskuri, and Recording Secretary Dave Hurst. Members Absent: Thomas Skare (Alternate).
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the April 17, 2018, Board of Adjustment meeting minutes as presented.
- (4) Old business: None.
- (5) Chairman Ezell called the Public Hearing to order at 7:01 p.m.
- (6) Chairman Ezell read that the legal ad was sent to the Star Gazette on April 26, 2018, and published in the Star Gazette on May 3, 2018.
- (7) Chairman Ezell read the *Finality of Decisions* from Zoning Ordinance 27.
- (8) Chairman Ezell read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27.
- (9) Variances

a) **Variance Request #318002 – Jim and Brenda Ruedebusch**

Jim and Brenda Ruedebusch of 4054 County Road 138, Barnum, MN 55707 have requested a variance to construct an attached garage and deck to a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback from the ordinary high water level (OHWL) of Hanging Horn Lake and the Moose Horn River. The construction of the attached garage will also encroach on the setback to the recorded road right-of-way. The property is described as Lot 2, Block 1, Eagle Ridge Plat in Section 11, Township 46 North, Range 19 West on Hanging Horn Lake in Barnum Township. The property address is 4054 County Road 138 (PIN 39-100-0020).

Jim and Brenda Ruedebusch were present to speak on their behalf. Mr. Ruedebusch said they started looking for a home in the area a couple years ago so they could be closer to their grandkids. They wanted a home on a lake with an attached garage due to his knee replacements and Brenda's health. They liked the location on the lake and thought they could put an attached garage onto the existing structure.

Ezell asked if the house had an attached garage previously which was converted to living space by a previous owner. Mr. Ruedebusch said that was correct.

Ezell asked about the request for a deck expansion on the lake side of the house. Mr. Ruedebusch said they would like to make the existing deck longer and it would not encroach any closer to the lake because their house is parallel to the lakeshore. Mr. Ruedebusch said they would like to expand the deck so they could put their grill and table on it so they would not have to go down steps to use the grill. He said the current deck is too small for a grill and table.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

Ezell read Heather Cunningham's Development Review #318002 dated May 7, 2018.

Eskuri asked if the Ruedebuschs talked to the neighbors about their request. Mr. Ruedebusch said they talked to their neighbor to the north who recently went through a variance and she was in favor of the request and wished them good luck (there was no written support submitted).

Mr. Ruedebusch questioned why the actions of the previous owner have any effect on their request. Chairman Ezell said it is one of the factors the Board has to look at when making a decision, along with recommendations from the zoning office and other information that the Board hears during the public hearing.

Mr. Ruedebusch questioned why all of the actions from the previous owner were not caught by the zoning office. Ezell said the zoning office doesn't have the staff or time to monitor every property in the County and it is not unusual to find out about problems once a permit is pulled and the zoning office visits a property.

Mr. Ruedebusch questioned the setback from the driveway easement and the uniqueness of his property. Hurst said that the 35 feet setback is the standard setback in the zoning ordinance from an easement or private road.

Manninen asked what type of living space the previous attached garage converted to. Mr. Ruedebusch said it is their master bedroom.

Mrs. Ruedebusch questioned why adding the attached garage would reduce their setback when they are not encroaching on the lake with the new construction. She asked if a detached garage would still require a variance. Hurst told them if they could meet the setback from the house, lake, river, easement road, and drainfield then a variance would not be required. Mr. Ruedebusch provided an aerial photo using Carlton County aerial imagery with a zoning overlay and said his garage is not in the 150 feet setback from the Moose Horn River. Hurst told him it is a general overlay done by Carlton County's GIS department and it is not the same as actually measuring the structure from the ordinary high water level.

Mrs. Ruedebusch questioned why her neighbor got an approved variance for a garage much closer to the Moose Horn River than what they are asking. Mr. Ruedebusch said her entire lot is within the setback from the Moose Horn River.

Mrs. Ruedebusch questioned if the previous owner is held accountable for the previous actions done without a permit. Ezell said once the property changes hands no.

Hurst asked if the garage was going to be 24 feet by 24 feet or 24 feet by 28 feet. Mrs. Ruedebusch said that they would be acceptable to 24 feet by 24 feet and it was their builder who suggested 24 feet by 28 feet.

Ezell asked if anyone in the audience was neutral or in support of this request.

Gary and Cindy Tyman of 309 Chestnut St, Cloquet, MN 55720, were in favor of the request.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

b) **Variance Request #318003 – Gary and Cindy Tyman**

Gary and Cindy Tyman of 309 Chestnut Street, Cloquet, MN 55720 have requested a variance to construct an addition and deck onto a dwelling that does not meet the required setback from the ordinary high water level (OHWL) of Big Lake. The subject property is described as Lots 3, 4, 5 and 6, Block 2, Plat of Shady Shore in Section 28, Township 49 North, Range 18 West on Big Lake in Perch Lake Township. The property address is 1016 Lakeview Drive (92-280-0240, 0260, 0280 and 0300).

Gary and Cindy Tyman were present to speak on their behalf. Mr. Tyman said they have lived and paid taxes in Carlton County for over thirty years. He said the current structure is basically a three season cabin. The well is in the crawl space and is heated but the building is very inefficient. He said they love the 4 lots they purchased and would like to live out there year round but the current cabin is not adequate to do that. He said they would like to use the current foundation, because the well and septic are already in place and that would minimize some of the excavating on the property. He said they realize the lot is non-conforming due to the lake setback, but they would change the roof configuration to a monolith roof so all of the runoff would be directed away from the lake. They would like an attached garage. He said they don't have the option to move back further from the lake because of a steep hill. He said the current cabin is too small for his family and grandkids.

Ezell asked if the garage on Lot 3 has living space in it. Mr. Tyman said the garage is strictly used for storage and there are no utilities in the garage. Mr. Tyman said it has a nice bay window but there are no sleeping quarters in the garage. The garage would be used for atv, snowmobile, and watercraft storage. He also said the zoning office is welcome to verify that the garage is being used for storage anytime they would like to come out and look.

Mrs. Tyman said the deck that is in front of the cabin would be removed and replaced on the side of the cabin and out of the shore impact zone.

Mr. Tyman said they have an approved shoreland mitigation plan, and he is pleased that people are trying to take care of the lake because there aren't any new lakes being made. He said they understand that the cabin is close to the lake but they are not planning any new construction closer to the lake. He said right now the cabin is not a building that could be lived in year round due to lack of insulation in the walls and the old windows.

Ezell asked if it is going to be one story or one and a half stories. Mrs. Tyman said it is going to be a partial two stories. She said the existing foundation would stay one story, but the new construction would be two stories.

Manninen asked Hurst if they would need a new septic system with new construction. Hurst said no, they already have a compliant septic system. Manninen asked if they had a holding tank. Hurst said they have a septic tank and trench drainfield.

Ezell asked, since they have 4 lots, if they have any future plans on building. Mr. Tyman said these are the only building plans they have for the future.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

Ezell read Heather Cunningham's Development Review #318003 dated May 7, 2018.

Ezell asked how far the new construction would have to be moved back to get out of the shore impact zone. Hurst said the closest point of the proposed request is 34 feet from the lake so it would need to move back 16 feet.

Ezell asked the applicants if they would be able to move the addition back so it would be out of the shore impact zone. Mr. Tyman said they would be willing to put the addition on the other side of the cabin so it is further away from the lake. Mrs. Tyman said the front of the existing cabin is at 43 feet. Mr. Tyman said it might be possible to step the proposed addition back another seven feet so it is out of the shore impact zone. Mr. Tyman said that they understand they need to be flexible and they think they would be making a big sacrifice moving the addition to the other side of the existing cabin. Mr. Tyman said they will contact Zoning Administrator Cunningham and discuss a different layout.

Ezell said the Board would want to see another set of plans and the best course of action would be to table the request.

Mr. Tyman said that he would like to table the request.

Ezell asked if anyone in the audience was neutral or in support of this request.

Jim and Brenda Ruedebusch of 4054 County Road 138, Barnum, MN 55707, were in support of the request.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

(10) The public hearing closed at 8:12 p.m.

(11) The Board of Adjustment meeting re-opened at 8:28 p.m.

Variance Request #318002 – Jim and Brenda Ruedebusch

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and four conditions listed on Carlton County Findings of Fact Worksheet dated May 15, 2018, and signed by Board Chair Ezell.

FINDINGS OF FACT:

- a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*
Yes No Why or why not?

A detached garage located 110 feet away is unreasonable given property owners would need to access it by shared driveway or over the septic system drain field.

Yes No Why or why not?

With respect to the expansion of the deck, this office does not consider it reasonable to expand the deck when the property already has a patio in the shore impact zone (which is not allowed).

- b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*
Yes No Why or why not?

A detached garage was constructed in a location 110 feet away from the permitted location.

Yes No Why or why not?

The property already has a large patio that is not permissible in the shore impact zone.

- c. *If the variance is granted, it will not alter the essential character of the locality?*
Yes No Why or why not?

It is the character of the neighborhood to have both an attached and detached garage.

Yes No

The granting of the variance could alter the essential character of the locality with respect to the deck.

Previous variances within this plat indicate that no portion of a dwelling shall extend any closer to the OHWL of Hanging Horn Lake than 58 feet.

- d. *Does the practical difficulty involve more than economic considerations?*
Yes No *Why or why not?*

It does not appear that economic considerations constitute the practical difficulty for reasonable use for this property.

- e. *If the variance is granted, it will not be granting a use that is not allowed in the zoning district in which the subject property is located?*
Yes No *Why or why not?*

The variance will not be granting a use that is not allowed within the R-1 Zoning District. Single family residences are a permitted use.

- f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*
Yes No *Why or why not?*

The terms of the variance do not appear to be in conflict with the Carlton County Community-Based Comprehensive Plan in terms of allowing the garage.

Yes No *Why or why not?*

The plan encourages preserving and restoring native vegetation along shorelines, therefore the deck should be denied.

DECISION:

If ALL answers are YES by a majority of the Board of Adjustment, the criteria for granting of the Variance have been met and the Variance is approved. Please confirm with the applicant that the following conditions are acceptable.

Granted: Construct a 24 feet by 24 feet attached garage to a nonconforming dwelling

Denied: Construct a deck to a nonconforming dwelling

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as amended by the Board of Adjustment.
2. The permit is invalid, or expires, if the holder does not have the work completed within one year of the granting of the permit.
3. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
4. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

Variance Request #318003 – Gary and Cindy Tyman

A motion was made by Eskuri, seconded by Manninen, and carried to table the request.

(12) Other Business. There was none.

(13) A motion was made by Eskuri, seconded by Manninen, and supported by all yea votes to close the Board of Adjustment meeting at 8:32 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary