

**Draft**  
**MINUTES OF THE CARLTON COUNTY**  
**BOARD OF ADJUSTMENT MEETING**  
**June 19, 2018**

- (1) Chairman Ezell called the meeting to order at 7:00 p.m.
- (2) Members Present: Jack Ezell, John Manninen, Howard Eskuri, Thomas Skare (Alternate) and Recording Secretary Dave Hurst.
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the May 15, 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 May 31, 2018, and published in the Star Gazette on June 7, 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 #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). This request was tabled at the May 15, 2018, Board of Adjustment meeting.

Gary and Cindy Tyman were present to speak on their behalf. Mr. Tyman said their variance request was tabled at the last meeting and he and his wife changed the plans and feel like they have made some sacrifices in order to get their building plans approved. They are removing the screen porch and car port and moving the addition from the east side of the cabin to the west side of the cabin opposite of the lake. He said they are also moving the proposed addition back seven feet so there will not be any new construction within fifty feet of the lake. He said the existing deck that is on the lakeside of the cabin will be removed and placed on the west side of the cabin. He said they want to make this their primary home instead of a place to visit. They want to keep the existing foundation because that is where the well is located, and it would require less excavating. He said the current building is inefficient and needs work. He said the new building will have a monoslope roof and will divert all runoff away from the lake. They would like an attached garage due to the inclement weather in the winter time. He said the current location of the building keeps them away from cutting into the bluff behind them.

Ezell said the Board appreciates all the work the applicants did since the last meeting.

Mr. Tyman said one of the reasons they bought the property was because the cabin was so close to the water, but they are willing to compromise and move the addition further from the lake to get their

building plans approved. Mrs. Tyman said they didn't realize they were that close to the lake because a previous zoning permit measured the cabin at forty five feet from Big Lake.

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 #318003 (Revised) dated June 11, 2018.

Ezell read the seven conditions and asked if the applicants understood and were okay with those seven conditions. Mr. and Mrs. Tyman said yes.

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

Peter and Erin Allen of 2199 County Road 6, Barnum, MN 55707, were in support of the request.

Rosemary Paczynski of 651 Cemetary Road, Wrenshall, MN 55797, was in support of the request.

Stephanie Simmonds of 2282 Yndestad Road, Carlton, MN 55718, was in support of the request.

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

b) **Variance Request #318004 – Thomas and Stephanie Simmonds**

Thomas and Stephanie Simmonds of 2282 Yndestad Road, Carlton, MN 55718, have requested a variance to construct a nonconforming detached garage. The garage is considered nonconforming as it will not meet the required setback from the centerline of Yndestad Road. The property is described as E1/2 of the NW1/4 of the NW1/4 of the NW1/4 in Section 17, Township 48 North, Range 17 West in Twin Lakes Township. The property address is 2282 Yndestad Road (PIN 81-030-3346).

Stephanie Simmonds was present to speak on her behalf. Mrs. Simmonds said they would like to build a detached garage sixty eight feet from the centerline of Yndestad Road. They would like to build in that location because of the septic system and the topography of their lot. This location is the only spot that is flat. The purpose of the garage is additional storage.

Ezell asked if the only reason for the variance was the setback from Yndestad Road. Hurst said yes.

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 #318004 dated June 11, 2018.

Ezell read the five conditions and asked if the applicant understood those five conditions. Mrs. Simmonds said yes.

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

Peter and Erin Allen of 2199 County Road 6, Barnum, MN 55707, were in support of the request.

Rosemary Olson-Paczynski of 651 Cemetary Road, Wrenshall, MN 55797, was in support of the request.

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

c) **Variance Request #318005 - Rosemary Olson-Paczynski**

Rosemary Olson-Paczynski of 651 Cemetery Road, Wrenshall, MN 55797 has requested to enclose an existing deck on a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback from the centerline of Cemetery Road. The property is described as Part of the SW1/4 of the SW1/4 in Section 27, Township 48 North, Range 16 West in Silver Brook Township. The property address is 651 Cemetery Road (PIN 69-020-1470).

Ms. Olson-Paczynski was present to speak on her own behalf. She said the house was built in the 1960s and wasn't built to the required setback today. She said they were granted a variance thirty years ago to build a deck on the back of the house. When she came to the office to get a permit to enclose the deck she was informed one of the conditions of the previous variance was that the deck could not be enclosed. She would really like to enclose the deck so she could spend more time outside in the spring and fall. She said the existing deck was really well built.

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 #318005 dated June 11, 2018.

Ezell read the five conditions and asked if the applicant understood those five conditions. Ms. Olson-Paczynski said yes.

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

Peter and Erin Allen of 2199 County Road 6, Barnum, MN 55707, were in support of the request.

Stephanie Simmonds of 2282 Yndestad Road, Carlton, MN 55718, was 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 7:34 p.m.

(11) The Board of Adjustment meeting re-opened at 7:38 p.m.

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

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and seven conditions listed on Carlton County Findings of Fact Worksheet dated June 19, 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?

The revised proposal for the dwelling addition and deck and removal of screen porch and car port appears to be a reasonable request. The revised proposal will not include construction in the shore impact zone and will remove a portion of the dwelling within the shore impact zone.

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?

The practical difficulty for the subject property appears to be the steep slope located 100 feet from the OHWL. The applicants cannot construct a new dwelling due to the steep slope and have revised the request to move the new construction out of the shore impact zone and remove a portion of the dwelling within 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?*

The granting of the variance should not alter the essential character of the locality. There are several dwellings along Lakeview Drive that do not meet the structure setback. The footprints of the dwellings located within 500 feet of the subject property are as follows: 1,568 square feet, 1,216 square feet, 408 square feet, 948 square feet, 1,180 square feet, and 1,232 square feet. The applicant is requesting 1,848 square feet for a dwelling.

- 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 of this property. The dwelling cannot be torn down and replaced to meet the setback due to the steep slope located 100 feet from the OHWL.

- 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. The use will be residential.

- 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. The applicants have revised their plan to move the new construction out of the shore impact zone and remove a portion of the dwelling within the shore impact zone. In addition, the applicants will complete a shoreland mitigation plan.

### **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 an addition and deck onto a nonconforming dwelling.

*Denied:*

### **CONDITIONS:**

1. The applicant must undertake the project according to the revised plans and specifications detailed in the application or as modified 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 permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
4. 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.
5. The applicant shall institute the mitigation practices by July 1, 2019.
6. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.
7. Provide a current septic compliance for the outhouse by September 1, 2018.

**Variance Request #318004 – Thomas and Stephanie Simmonds**

A motion was made by Manninen, seconded by Eskuri, and carried to **Approve** the findings of fact, decision, and five conditions listed on Carlton County Findings of Fact Worksheet dated June 19, 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?

The applicant is requesting a reasonable use of the property. The applicant would like a second garage for storage only.

- 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?

The applicant has indicated the practical difficulty in meeting the required setback from the centerline is the septic system. This office would also include the property's topography and wetlands as limiting factors for the location of a detached garage.

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

The granting of the variance should not alter the essential character of the locality. The existing tree line will limit the view of the garage from the road.

- 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. It appears that a practical difficulty is the location of the septic system, site topography and wetlands.

- 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 A-2 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 and Ordinance. Setbacks from roadways are primarily a public safety and maintenance issue. The setback allows for clear zones for traffic, snow removal, and maintenance, as well as emergency vehicles (police, fire and ambulance) to be able to properly travel and provide service through the area. A reduced setback for this property should not cause any issues for snow removal or emergency vehicles.

**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 nonconforming detached garage.

*Denied:*

**CONDITIONS:**

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.
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 permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
4. 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.
5. 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 #318005 – Rosemary Olson-Paczynski**

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and five conditions listed on Carlton County Findings of Fact Worksheet dated June 19, 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?

The applicant is requesting a reasonable use of the property. The applicant would like to enclose the deck on the rear side of the house. It does not obstruct any sight lines from the road.

- 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?

The practical difficulty is the construction of a dwelling prior to official controls. This office is not clear why the condition was placed that it could not be enclosed. The deck does not obstruct any sight lines.

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

The granting of the variance should not alter the essential character of the locality. There are other dwellings that do not meet the setback from the centerline within one quarter mile.

- 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. It appears that the practical difficulty is the construction of a dwelling prior to official controls.

- 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 A-2 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 and Ordinance. The deck is already permitted in that location and enclosing it should not obstruct any sight lines from the road.

**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:* Enclose an existing deck on a nonconforming dwelling.

*Denied:*

**CONDITIONS:**

1. The applicant must undertake the project according to the plans and specifications detailed in the application or as modified 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 permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
4. 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.
5. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

(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 7:40 p.m.

Respectfully submitted,

Dave Hurst  
Recording Secretary