

Draft
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
July 17, 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 June 19, 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 June 28, 2018, and published in the Star Gazette on July 5, 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 #318006 – Kathy Isaacson**

Kathy Isaacson of 404 West Prospect Avenue, Cloquet, MN 55720, has requested a variance to construct a nonconforming garage and replace a nonconforming outhouse all on a nonconforming lot. The lot is considered nonconforming as it does not meet the required lot width or lot area. The garage is considered nonconforming as it will not meet the setback to the road right-of-way. The outhouse is considered nonconforming as it does not meet the required setback to the road right-of-way or side yard line. The request includes considering the lot buildable in the future as long as setback, lot coverage and septic requirements are met. The applicant has requested two years to complete the project. The property is described as Lot 15, Block 1, Plat of Sunset View in Section 29, Township 48 North, Range 18 West on Park Lake in Atkinson Township. The property address is 2177 Park Lake Lane (PIN 33-220-0280).

Kathy Isaacson was present to speak on her behalf. Ms. Isaacson said she bought the property two years ago and would like to construct a garage. She said most of her neighbors have garages and she thought the garage would fit on the roadside lot. She found out when she came to the zoning office that the outhouse had not been abandoned properly so she wants to put a watertight vessel in the outhouse so it would be compliant.

Ezell asked if wetlands were limiting her from meeting the setback from the road. Ms. Isaacson said yes and she would like to preserve the wetlands.

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 #318006 dated July 9, 2018.

Ezell read the six conditions and asked if the applicant understood and was okay with those six conditions. Ms. Isaacson said yes.

Ezell asked if Ms. Isaacson understood that Development Review #318006 recommended that the lot will not be considered buildable in the future without a variance. Ms. Isaacson questioned whether that would affect this request for her garage. Ezell said no, but any future projects would require an approved variance. Ms. Isaacson said she understood.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

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

b) **Variance Request #318007 – Bobbi Jo Zakowitz**

Bobbi Jo Zakowitz of 3179 Maple Drive, Cloquet, MN 55720, has requested a variance to construct a deck, detached garage, privacy fence and replace water-oriented accessory structure (WOAS) all on a nonconforming lot. The lot is considered nonconforming as it does not meet the required lot width or lot area. The request includes considering the lot buildable in the future as long as setback, lot coverage and septic requirements are met. The applicant has requested two years to complete the project. The property is described as Lot 17, Block 1, Maple Grove Plat in Section 33, Township 49 North, Range 18 West on Big Lake in Perch Lake Township. The property address is 3179 Maple Drive (PIN 92-170-0300).

Bobbi Jo Zakowitz and Shawn Fairbanks of 3179 Maple Drive, Cloquet, MN 55720, were present to speak on their behalf. Ms. Zakowitz said they are proposing to follow the plans submitted to the zoning office. She said Heather Cunningham recommended to make the lot buildable in the future so they wouldn't need another variance. She said the fence will only be on one side of the property along her house so her family can have some privacy. She said the fence will be setback six inches from the property line. She said the land has been surveyed so she knows that all of her proposals will meet the setback from the property lines. Mr. Fairbanks said they would like to fix up the WOAS not necessarily replace it. He said it is very old and needs some repairs. Ms. Zakowitz said the WOAS is 103 feet from Big Lake.

Ezell asked if the Board had any questions.

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

Manninen asked what they used the WOAS structure for. Ms. Zakowitz said they store kayaks and fishing poles. Mr. Fairbanks said he would like to rebuild it as it is very old and needs a new roof.

Ezell read Heather Cunningham's Development Review #318007 dated July 9, 2018.

Ezell read the five conditions and asked if the applicant understood those five conditions. Ms. Zakowitz and Mr. Fairbanks said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. Rachel Weller of 7481 W Cord Road, Cloquet, MN 55720, was in support of the request.

Ezell asked if anyone in the audience was in opposition of this request. Dennis Foss of 3190 Maple Drive, Cloquet, MN 55720, was in opposition of the request. Mr. Foss said that only one neighbor of Bobbi Jo has a garage and he feels that the privacy fence is going to wreck the character of the neighborhood. Mr. Foss said he doesn't understand why someone who wants privacy would buy a 50 foot lot and then put up a big gaudy fence. Mr. Foss said that if the fence was shorter it would be more acceptable to him.

Ezell asked if a privacy fence was a permitted use.

Hurst said yes, but in this case the lot is not buildable so a variance is required.

Ms. Zakowitz indicated the fence is starting at the neighbor's garage and ending just pass their house. She said the fence will not be going down by the lake.

c) **Variance Request #318008 – Lonny Kvanli**

Lonny Kvanli of 201 Mattie, Mitchell, South Dakota 57301, represented by Rachel Weller of Advanced Excavating of 7481 West Cord Road, Cloquet, MN 55720, has requested a variance to install nonconforming holding tanks. The holding tanks are considered nonconforming as they will not meet the setback to the ordinary high water level (OHWL) and side yard line. The property is described as Part of Government Lot 4 in Section 29, Township 48 North, Range 18 West on Park Lake in Atkinson Township. The property address is 3460 South Lakeshore Drive (PIN 33-010-6860).

Rachel Weller of 7481 West Cord Road, Cloquet, MN 55720, was present to speak on Lonny's behalf. Mrs. Weller said the current holding tanks are block and are leaking. She said there is bedrock everywhere on the lot so they are going to use a low profile tank. She said the tank does not meet the lake setback or the setback from the property line. She said the tank does not meet the 50 feet well setback either, but they have an approved variance from the Minnesota Department of Health. She said this location is the only spot the tank can go.

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 #318008 dated July 9, 2018.

Ezell read an email from Sandra Beck (Minnesota Department of Health Hydrologist) that indicated the well setback variance was approved to be no closer than 40 feet.

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

Ezell asked if anyone in the audience was neutral or in support of this request. Bobbi Jo Zakowitz of 3179 Maple Drive, Cloquet, MN 55720, 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 7:43 p.m.

(11) The Board of Adjustment meeting re-opened at 7:52 p.m.

Variance Request #318006 – Kathy Isaacson

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 July 17, 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 proposing a reasonable use of the property with respect to the garage and outhouse. The applicant has a small storage shed but would like a garage. It is reasonable retain the outhouse as long as it is not an earthen pit and has a water-tight vessel that is maintained.

Yes No Why or why not?

It is not reasonable to consider this lot buildable. None of the structures on the lot meet setback requirements. The lot is too substandard to consider it buildable.

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 appears to be the creation and development of substandard lots in a plat that was established in 1929, prior to any official controls.

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 with respect to the garage and outhouse. Several of the lots in this plat have garages and storage sheds on the roadside portion of the lot.

Yes No Why or why not?

It is not the character of this neighborhood to have buildable lots. The lots are very substandard and structures cannot meet setback requirements.

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. The applicants would like to construct a garage and retain an outhouse. The practical difficulty appears to be the creation and development of the plat prior to any 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 R-1 Zoning District. Single family residences and seasonal 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. The request is along the roadside portion of the lot and will not exceed lot coverage standards.

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: To construct a nonconforming garage and replace a nonconforming outhouse all on a nonconforming lot.

Denied: Consider the lot buildable in the future.

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 two years 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. The applicant must place a water-tight vessel beneath the outhouse by July 17, 2020.
5. A silt fence must be installed along the upland border of wetland before construction can begin and must be maintained until vegetation has been reestablished.
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. Denied to consider the lot buildable in the future.

Variance Request #318007 – Bobbi Jo Zakowitz

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 July 17, 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 proposing a reasonable use of the property. The applicant is requesting to construct a deck, garage, privacy fence and replace a WOAS on a substandard lot that was developed prior to official controls. The proposed structures will all meet setback requirements. It appears reasonable to allow the lot to be considered buildable as setback, lot coverage and septic requirements can be met.

- 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 appears to be the creation and development of substandard lots in a plat that was established in 1921, prior to any official controls.

- 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. Several of the lots in this plat have requested to be buildable and all the proposed structures will meet setback requirements.

- 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. The applicant would like to construct a deck, garage, privacy fence and replace a WOAS on a substandard lot that was developed prior to official controls. The proposed structures will all meet setback requirements. The practical difficulty appears to be the creation and development of the plat prior to any 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 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. The proposed structures will meet all applicable setback requirements and the lot has a compliant septic system as of June 22, 2018.

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 deck, detached garage, privacy fence and replace water-oriented accessory structure (WOAS). Consider the lot buildable in the future as long as setback, lot coverage and septic requirements are met.

Denied: NA

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 two years 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. Consider the lot buildable as long as setback, septic system and lot coverage standards can be met.
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 #318008 – Lonny Kvanli

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 July 17, 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 proposing a reasonable use of the property. Septic tanks were previously approved for this location. There is no other suitable location and this property was developed before official controls. There are no other options.

- 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?

It appears the practical difficulty is the substandard lot and shallow bedrock.

- 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 septic tanks have been in this location since 1986.

- 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. The practical difficulty is the substandard lot and shallow bedrock.

- 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 or seasonal dwellings 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. The plan does not address this issue specifically. As stated above, this is a very unique situation.

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: Install nonconforming holding tanks

Denied: NA

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications as determined by the Board of Adjustment.
2. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
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.
5. A permit for the holding tanks must be submitted to this office by October 1, 2018.

(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 7:58 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary