

Draft
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
September 18, 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 August 21, 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 August 30, 2018, and published in the Star Gazette on September 6, 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 #318012 – Lou and Robin Paulson**

Lou and Robin Paulson of 3948 Little Hanging Horn Circle, Barnum, MN 55707 have requested a variance to construct a screened-in deck onto a dwelling that does not meet the required setback from the ordinary high water level (OHWL) of Little Hanging Horn Lake or the setback from a private road right-of-way (Little Hanging Horn Circle). They have also requested to retain an existing landing that does not meet the setback from the OHWL. In addition, the lot is a nonconforming lot as it does not meet the required lot area. The subject property is described as Part of Government Lot 5 in Section 12, Township 46 North, Range 19 West on Little Hanging Horn Lake in Barnum Township. The property address is 3948 Little Hanging Horn Circle (39-030-1680 and 1770).

Bill and Linda Deitner of 637 W 2nd St, Hastings, MN were present to speak on the Paulson's behalf. Mr. Deitner said Lou and Robin Paulson are on a month long vacation on the east coast and could not attend the meeting. Mr. Deitner said they would like to construct a ten feet by fourteen feet screen porch. He said they would also like to retain an existing unpermitted landing that was found during the development review.

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

Manninen asked if the deck permitted in 1997 was six feet or four feet in width. Mr. Deitner said it was built at six feet and was suppose to extend the length of the cabin. Hurst added that the deck did not go the whole length of the house but was actually two decks with a space in the middle and it was permitted at four feet in width.

Ezell read Heather Cunningham's Development Review #318012 dated September 10, 2018.

Ezell read the six conditions and asked if the applicant understood those six conditions. Mr. Deitner said yes.

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 #318013 – Rural Investment Properties, LLC**

Rural Investment Group LLC/Monte Niemi of 727 389th Avenue Northeast, Stanchfield, MN 55080, represented by Ethan Harvey of 3072 Highway 23, Wrenshall, MN 55797, has requested a variance to place a trailer house, construct a deck and two storage sheds on a nonconforming lot. The lot is considered nonconforming as it does not meet the required lot area. The property is described as Part of the Northwest ¼ of the Southwest ¼ (Government Lot 5) and Part of the Southwest ¼ of the Southwest ¼ (Government Lot 6), all in Section 32, Township 47 North, Range 20 West on Kettle River in Kalevala Township (PIN 51-056-5420).

Monte Niemi of 727 389th Ave NE, Stanchfield, MN, was present to speak on behalf of Rural Investment Properties, LLC. Ezell asked if the Board had any questions. Mr. Niemi said this property has been in his family for over one hundred years. He said this property is very sentimental to his family, his Grandpa and two brothers survived the 1918 fire by laying in the river that runs along this property. He said his family has been using the property as a picnic area. He said the property got smaller after Highway 73 was re-aligned. He said he purchased the property a couple of years ago. He said his goal is to put a driveway and permanent residence on the property. He said five years ago his friend had a house fire, so Mr. Niemi bought him a park model trailer to stay in while he was rebuilding. He said he was hoping to place that park model on the property as his first step in developing the property. He said he discussed having a permanent residence with Zoning and Environmental Services Administrator Cunningham and she told him that would be a different request than a temporary seasonal residence.

Mr. Niemi submitted some photos and documents drafted by Mr. Niemi's attorney to the board.

Ezell asked if Zoning and Environmental Services Administrator Heather Cunningham had viewed the documents. Mr. Niemi said no.

Ezell asked Mr. Niemi what options were discussed with Zoning and Environmental Services Administrator Heather Cunningham. Mr. Niemi said if he is going to change his request to a permanent residence Zoning and Environmental Services Administrator Heather Cunningham recommended that his request be tabled so more information could be gathered.

Mr. Niemi said that Zoning and Environmental Services Administrator Heather Cunningham said the property may be able to be rezoned.

Mr. Niemi said his company produces tire derived aggregate. He said they are used for roads and site preps. He said the advantage to using tire derived aggregate is it eliminates frost activity.

Skare asked if the property to the north had been granted a variance. Mr. Niemi said yes and he thought it was granted in 2007.

Skare asked if Mr. Niemi had any opposition to rezoning the property. Mr. Niemi said no. Ezell indicated that it would be tough to rezone the property because it is not contiguous with any A-2 zoned properties.

Ezell asked if Mr. Niemi would like to change his request to a permanent residence instead of a seasonal residence. Mr. Niemi said he did not understand when he made the request that there was a difference between a seasonal and permanent residence, he thought he could start out with a park model and transition into a permanent residence.

Skare asked if Mr. Niemi's intent was to have a permanent residence on the property. Mr. Niemi said yes.

Mr. Niemi said the property is in a trust so future generations of his family can enjoy the property.

Mr. Niemi then asked that his request be tabled and he will work with Zoning and Environmental Services Administrator Cunningham.

(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 #318012 – Lou and Robin Paulson

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and six conditions listed on Carlton County Findings of Fact Worksheet dated September 18, 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 applicants are proposing a reasonable use of the property. The applicant would like to construct an enclosed deck to be able to enjoy the view of the lake and retain an existing landing constructed by a previous property owner. The proposed enclosed deck will not be encroaching any further to the setback of the OHWL. The applicants are removing a deck on the lakeside of their existing boathouse and removing an existing free standing deck in the shore impact zone. The dwelling was in compliance with the "interpreted" road setback at the time it was built.

- 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 of the lot and development of the property before official zoning controls were in existence.

- 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. It appears that several of the surrounding properties have dwellings that do not meet the setback to the OWHL and to the road right-of-way.

- 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 applicants would like to construct an enclosed porch to enjoy the view of the lake and retain a landing.

- 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 Carlton County Community-Based Comprehensive Plan does not specifically address this request other than the plan encourages preserving and restoring native vegetation along shorelines. If the variance is granted, the applicants will implement a shoreland mitigation plan to address this issue.

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 screened-in deck onto a dwelling that does not meet the required setback from the ordinary high water level (OHWL) of Little Hanging Horn Lake or the setback from a private road right-of-way (Little Hanging Horn Circle); retain an existing landing that does not meet the setback from the OHWL; all on a lot that is nonconforming as it does not meet the required lot area.

Denied: NA

CONDITIONS:

1. The applicants must undertake the project according to the plans and specifications detailed in the application or as modified by the Board of Adjustment.
2. The applicants must have an approved zoning permit within one year. All work must begin within one year of issuance of the zoning permit. This means that there is enough of the structure(s) in place to determine that it meets the dimensions depicted on the zoning 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 applicants shall institute the mitigation practices by June 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.

Variance Request #318013 – Rural Investment Properties, LLC

A motion was made by Manninen, seconded by Eskuri, 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 7:40 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary