

DRAFT
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
March 15, 2011

The Board of Adjustment meeting was called to order at 7:06 p.m. by 2010 Chairman DeMenge.

Members Present: Stan DeMenge, Tom Hill, Doug Suhonen (Alternate), and Steve Bassa (Recording Secretary)

Absent: Marcus Bruning

Motion by Suhonen, seconded by Hill, and supported by all yea votes to approve the November 23, 2010, and November 29, 2010 Board of Adjustment meeting minutes as written and submitted.

Election of Officers: Motion by Suhonen, seconded by Hill and supported by all to elect DeMenge as 2011 Board of Adjustment Chairman. Motion by Suhonen, seconded by DeMenge and supported by all to elect Hill as 2011 Board of Adjustment Vice Chairman.

Chairman DeMenge called the Public Hearing to order at 7:07 p.m.

Chairman DeMenge read that the legal ad was sent to the Arrowhead Leader on February 24, 2011 and published in the Arrowhead Leader on March 3, 2011.

Chairman DeMenge read Article 3, Section 6 of the Carlton County Zoning Ordinance, Ordinance #27.

Variance #310027: Robert and Tamria Carlson

Robert Carlson was present to speak in his own behalf.

Chairman DeMenge read the applicants' detailed description and justification of the request.

Included in the variance application were four pictures of the deck and dwelling taken by Zoning Inspector Steve Bassa during a zoning permit inspection on the property on September 30, 2010.

According to the applicant, the deck was constructed in four removable sections since the natural gas and water lines (as well as the sewer line) enter the dwelling under that side (east) of the dwelling.

Zoning Administrator Benson's March 1, 2011 video of the property was then viewed.

Chairman DeMenge read Development Review #310027.

No one in the audience was present to speak for or against the request.

Variance #311002: Derek Nyberg

Derek Nyberg was present to speak in his own behalf.

Chairman DeMenge asked the applicant what the situation was with a previous permit having been issued for a two-story deck.

The applicant responded that to his understanding, the previous owner/builder had applied for a deck permit to provide access from a sliding (glass) patio door on the upper story.

Bassa stated that there were no permits on file for Mr. Nyberg's property to construct a deck. Zoning Permit #103227 is the only permit on file for the property, and it was only for the dwelling (and attached garage). No deck was listed on the permit application.

Mr. Nyberg stated that the original house plan was to have included a deck and the upper story patio door was on the dwelling when he purchased it from the owner/builder.

Bassa noted that actual house plans are rarely received (nor required except under certain circumstances) by the Zoning Office with zoning permit applications for dwellings. He does not believe Zoning Permit #103227 included any specific house plans, just the normal sketch showing the proposed structures, locations and setbacks on the property.

The applicant stated that he did not know why the upper level deck was never constructed.

When asked by the board members, Bassa stated that the current house setback where the proposed 19' x 19' deck would be located was 86 feet.

Bassa noted on the board member's sketches where the closest measurement was taken (during an earlier zoning permit inspection) from the proposed deck (corner) to the estimated Ordinary High Water Level. This measurement was measured to the lake ice and may not be completely accurate due to the snow cover at the time of the inspection and due to the fact of a very gradual drop in elevation (no actual bank) from the upland to the shoreline.

Suhonen asked the applicant what the exact reasons were for requesting a 19' x 19' lower-level deck.

Mr. Nyberg stated that there were actually several reasons:

1. He is a volunteer for Cromwell's Cardinal Courts, an assisted living plus facility, and he plans to have residents over to his dwelling periodically to enjoy the lake and to possibly occupy themselves with decorative gardening on his property.

The 19 foot width is the standard (info from Cardinal Courts facility) in which to provide a handicapped access deck with a table on it.

2. Aesthetic reasons – Mr. Nyberg is into interior design and so forth, and has spent a lot of time on this design. It will have the appearance he is looking for yet provide an access (stairway) for the upper level (balcony) deck off the patio door. The applicant stated the deck would only have two or three posts into the ground.

DeMenge asked why a 19 foot width is being requested. It seems to be a rather odd size for materials for building a deck.

The 19 foot dimension out from the dwelling came from an interior design person from the Twin Cities and from discussions with his family who actually owned and operated the Villa Vista Nursing Home in Cromwell for many years. Villa Vista has transformed from a nursing home in recent years to an assisted care living facility called Cardinal Courts.

Suhonen asked the applicant if there was a specific reason that he is requesting 19 feet and if the size could be reduced to 16 feet or so.

Mr. Nyberg responded that the 19 foot depth is what he wants after spending a lot of time researching the matter.

Hill asked the applicant if the main level deck could be constructed less than 12 inches above the current, natural ground surface and therefore not be considered a deck and not require a permit or variance.

The applicant responded that the proposed deck side of the house is where the topography around the house drops the most and doubts that a platform could be constructed less than 12 inches above grade very far out from the house.

DeMenge then asked the applicant if there is any possibility the lower deck size could be reduced to 16 feet.

Suhonen interjected before the Chairman's question was answered, and asked if the applicant has some sort of contract with Cardinal Courts to bring residents to his property. How often would he expect to have assisted care residents at his property?

Mr. Nyberg stated that he is a volunteer at the Cardinal Courts facility and has worked and cared for such people most of his life (working at the former Villa Vista and Cloquet Nursing Home).

He intends to make his home a "showcase home" which would involve the County Extension Office's Master Gardener program and bringing Cardinal Court's residents periodically to his lake property to enjoy the setting and possibly get involved with some decorative gardening as something enjoyable for them to do. The home would be featured in "Country Magazine" and others and would be a great advertisement for Carlton County living.

Assisted care facility residents would probably be brought to Mr. Nyberg's property monthly during the spring, summer and fall.

DeMenge commented that he is familiar with modern wheelchairs requiring a lot of room (on a handicapped accessible deck) as he was employed by the Cloquet Hospital and Nursing Home for many years. A lengthy discussion then took place among the board members and applicant as to the possibility of reducing the 19 foot depth of the lower level deck.

The applicant does not see why his proposal would affect anyone. He has no close neighbors to either side of his house, is the last house way out on a private point, and the deck would not be facing the main body of Island Lake.

Bassa noted non-resident lake users (anglers, boaters, etc.) are also considered residents as the public waters can be used and affected by all of the people on the lake and not just the property owners.

The applicant then questioned what the Zoning Administrator's role was in this decision, the applicant noting Mr. Benson's recommendations in the development review that he recently received.

DeMenge, Suhonen and Bassa explained the Zoning Administrator and Board of Adjustment roles to the applicant.

Mr. Nyberg clarified that only the main level deck will be handicapped accessible. The upper level deck will have a spiral staircase onto the main level deck.

Zoning Administrator Benson's March 2, 2011 video of the property was then viewed.

Chairman DeMenge noted that a shoreland mitigation plan had been approved for the property by Heather Cunningham of the Zoning Office on February 18, 2011.

Chairman DeMenge read Development Review #311002.

DeMenge asked the applicant if he would consider downsizing the request or, as Suhonen, DeMenge, Hill and Bassa suggested, perhaps tabling the request so he could take a closer look at other options to bring the request more into compliance.

Mr. Nyberg informed the Board that he travels a lot for his job, and in fact, flew into the Twin Cities earlier today and drove up to Carlton to attend tonight's meeting. He does not know when he might be able to attend a future meeting with his varied out of the area work schedule.

After more thought and discussion, Mr. Nyberg decided to amend his request to a 16' x 19' first (main) floor deck with a 13' x 13' second floor deck.

No one in the audience was present to speak for or against the request.

The public hearing closed at 8:08 p.m. and the Board of Adjustment meeting re-opened at 8:19 p.m.

Variance #310027: Robert and Tamria Carlson

Motion by Hill, seconded by Suhonen and supported by DeMenge to approve the request with the following conditions:

Justifications

1. The foundation for the deck does not go below grade.
2. The cabin is built on a slab.
3. Allowing the variance will not cause structural damage to the septic tank or building.
4. The deck can be easily removed to access the septic tank.

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 has not obtained a Zoning Permit within one year of the granting of the Variance.
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 deck shall remain open with no side walls or roof, and footing below grade shall not be installed.
6. Access shall remain to the septic tank for maintenance, service, repair and replacement.

Variance #311002: Derek Nyberg

Motion by Hill, seconded by Suhonen and supported by DeMenge to approve the request with the following conditions:

Justifications

1. Granting the variance will not have a substantial impact on the character of the neighborhood or be a detriment to neighboring properties.
2. There is not a substantial variation in relation to the requirement.
3. Applicant has agreed to reduce the width of the lower deck to 16'.

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 has not commenced building 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. Decks shall remain open with no roofs or sidewalls.

Motion by Suhonen, seconded by Hill, and supported by all yea votes to close the Board of Adjustment meeting at 8:20 p.m.

Respectfully submitted,

Steve Bassa
Recording Secretary

BofA/Minutes/2011/03-15-11.doc/blr