

DRAFT
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
August 23, 2011

The Board of Adjustment meeting was called to order at 7:04 p.m. by Chairman DeMenge.

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

Absent: None.

Motion by Hill, seconded by Bruning, and supported by all yea votes to approve the July 26, 2011, Board of Adjustment meeting minutes as written and submitted.

Chairman DeMenge called the Public Hearing to order at 7:05 p.m.

Chairman DeMenge read that the legal ad was sent to the Arrowhead Leader on August 4, 2011 and published in the Arrowhead Leader on August 11, 2011.

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

Variance #311011 Ellen Yazbeck

John Yazbeck was present to speak on he and his wife's (Ellen) behalf and started by saying that he didn't know that deck size was limited in the access corridor, which is 33' wide on his property.

A 4' wide (concrete block) stairway was constructed within the shoreland access corridor and below the lowest step the applicant constructed a 12' x 10' deck/landing which is actually 3, 4' x 10' sections.

The center 4' x 10' section is in the main walking path and for access to the applicants' 4' x 32' dock during the spring and summer. The two 4' x 10' side deck sections are intended for the storage of the dock sections during fall and winter months.

The applicants have invested a lot of money and work to comply with the shoreland mitigation requirements and do not want to destroy the vegetation by storing their dock on it. Mr. Yazbeck stated that at least one out of every four homes (lots) in the area have structures right on top of the water – much larger than the little deck he is requesting.

Chairman DeMenge asked about the possibility of moving the entire deck 10' back so it would comply with the Ordinary High Water Level setback and not require the variance.

Mr. Yazbeck stated that it would be very difficult to relocate with the work he has put in it and that it would destroy much of the work and vegetation (purchased approximately 120 plants) that have already been planted as a requirement of a Variance #310003. It would be much easier to

remove part of the deck (as it is in 3-4' wide sections) than to relocate it, (even though it would eliminate dock storage).

Bruning asked the applicant what exactly was discussed with Heather Cunningham of the Zoning Office when she visited with him at the property.

Mr. Yazbeck stated that a deck was not discussed because he hadn't even thought of it at the time.

Initially the applicant intended to access the water with a stone stairway, but while meeting with Cunningham, a hinged, wooden stairway was discussed as a means of protecting stairway destruction by ice upheaval. Mr. Yazbeck then started thinking about incorporating a landing or deck into his lake access plans. He was not aware of the difference between a deck and a landing nor that a landing could not exceed 32 square feet.

Mr. Yazbeck stated that he has already completed 4 out of the 5 conditions required under the approval of Variance #310003.

The applicant believes that removing two, 4' x 7' side areas of the existing deck (removal of 56 square feet) would bring the structure into compliance.

However, Bassa explained that it wouldn't since a 7' x 7' by 3' x 12' (65 square foot) deck would remain 3' from the Ordinary High Water Level.

The structure could not be considered a landing either since it would be double the size (square footage) allowed for a landing.

If the 12' x 10' deck were moved back another 7' (or at least 10' from the Ordinary High Water Level) it could be permitted as a water-oriented accessory structure with a regular zoning permit.

Mr. Yazbeck responded that relocating the deck/landing further up the bank would destroy the work, vegetation, and money that have already been invested to comply with the mitigation requirements of last year's variance request.

He then tried showing the board members (with the sketch and pictures) how relocating the structure would affect the newly planted vegetation.

Zoning Administrator Benson's August 11, 2011 video of the property was then viewed.

Bassa commented that the vegetation the applicant is referring to is grasses and shrubs – no trees.

Mr. Yazbeck responded that there are over 120 plants that were recently purchased and planted as a requirement of Variance #310003.

Suhonen asked what the elevation difference is between the top of the dock and top of the deck.

The applicant responded that it is about 4' and that the lake level is higher this year than it has been in the recent past.

The applicant and board members then discussed various options which may minimize or negate the need for a variance.

Chairman DeMenge then read Development Review #311011.

After further discussion between the applicant and board members of options/alternatives, Mr. Yazbeck asked to amend the request to retain the middle (4' x 10') section of the structure, which would only be used as a landing – not a deck. The variance request would be for a landing exceeding 32 square feet – 40 square feet.

No one in the audience spoke for or against the request.

Variance #311012 David Kolehmainen

Mr. Kolehmainen was present to speak in his own behalf.

Bassa explained how the situation came about – the applicant applied for a zoning permit for the proposed 12' x 20' rear house addition and during the site inspection, Bassa found by probing, that the existing septic tank corner was only 7 ½' from closest corner of the proposed addition. (The applicant was notified of this by an August 1, 2011 letter).

According to the applicant, the roof pitch of the proposed addition will be 90° to the existing roof and will not drain onto the septic tank area.

Mr. Kolehmainen also said that he did not build the house, but does know that the previous owner (who developed the property) had planned a future addition in the same location. He doesn't know what the size of the addition was to have been, nor if the owner/builder was aware of the 10' setback from the septic tank.

Zoning Administrator Benson's August 12, 2011 video of the property was viewed.

Chairman DeMenge read Development Review #311012.

No one in the audience spoke for or against the request.

Variance #311013 Michael and Kimberly Smith

Kimberly Smith was present to represent her and her husband.

Chairman DeMenge read the applicant's detailed description and justification of the request from the variance application.

Mrs. Smith explained that the L-shaped deck (partially completed) will provide access to a door on the west side of a rear house addition which was constructed in 2010 under Zoning Permit #310009.

The deck is located about 2' above the ground and will be an open deck with a railing.

Zoning Administrator Benson's August 15, 2011 video of the property was viewed.

The deck was partially constructed to allow rear access to the home for a graduation party. The decking was not permanently attached in case some removal was required.

The structure is constructed on piers 48" into the ground and will not affect the structural integrity of the pre-case concrete tank nor prevent proper maintenance (pumping) of the tank.

When Zoning Permit #310009 was approved, Mrs. Smith thought that the deck had been included, but it hadn't.

A garden and a couple of trees were previously removed from the deck site.

There are "mechanicals" constructed into the house on the north side where the deck is going, but the deck will be constructed so there is access to them.

Chairman DeMenge read an August 15, 2011 letter in support of the request (and which also questioned the need for the variance) from Glenn Peterson of 1365 White Pine Drive, Cloquet, MN 55720.

Chairman DeMenge read Development Review #311013.

No one in the audience spoke for or against the request.

Variance #311014 Daryl and Linda Bong

Daryl Bong was present and stated that he is requesting to construct a 32' x 36' addition (with an 8' x 36' open-framed patio on the back) onto the west side of an existing 24' x 36' house which is 44' from the centerline of Gault Road.

There is an existing wheel chair ramp on the road side of the existing dwelling which will not be expanded or added onto on the same side of the new addition. There will, however, be a concrete walkway on the road side of the new addition providing a level access to the existing ramp.

The existing driveway access will be relocated further to the west to accommodate the new addition.

Gault Road is a township road that is maintained by the County Transportation Department, according to the applicant. No correspondence has been received from the County Highway Engineer's Office regarding this variance request.

Zoning Administrator Benson's August 16, 2011 video of the property was viewed.

According to Mr. Bong, a new septic system will be installed for the new dwelling and will be more than 200' from the existing well which serves both of the dwellings on the property.

Mr. Bong stated that Silver Brook Township will be paving Gault Road in the near future so traffic dust should not pose any problems for the dwelling location.

Chairman DeMenge read Development Review #311014.

Henry DeVriendt of 1196 Gault Road, Wrenshall, MN 55797 stated that he has the last residence on Gault Road and is against the request.

1. There is a wetland/drainage area surrounding the home site area and two culverts (to the east and west of the driveway access/home site) often back up near the road since they don't properly handle the runoff.
2. This part of Gault Road gets some very high snow drifts and snow plowing will be compromised with the dwelling so close to the road.
3. The existing (and expanded) dwelling is just too close to the road. With the extent of the work, the dwelling should be relocated and not expanded.

The Public Hearing was closed at 7:36 p.m. and the Board of Adjustment Meeting was reopened at 8:54 p.m.

Variance #311011 Ellen Yazbeck

Motion by Bruning, seconded by Hill and supported by all yea votes to approve the amended variance request for a 4' x 10' landing for the following reasons:

Justifications

1. The property owner is proposing to use the property in a reasonable manner not permitted by this Ordinance as the variance is a minor adjustment to the 32 square foot requirement.
2. The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners.
3. The granting of this variance will maintain the essential character of the locality. In addition, the applicant has completed several components of recommended shoreland mitigation to protect the lake.
4. The practical difficulty involves more than economic considerations as it allows for lake and dock access on this unique property.
5. Granting the variance would allow a use that is allowed in the zoning district in which the subject property is located.
6. The terms of the variance are consistent with the Carlton County Community-Based Comprehensive Plan and allows use of the property which is consistent with the intent of the Plan.

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.

Variance #311012 David Kolehmainen

Motion by Bruning, seconded by Hill and supported by all yeas votes to approve the variance for the following reasons:

Justifications

1. The property owner is proposing to use the property in a reasonable manner not permitted by this Ordinance.
2. The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners. The applicant has no other choice for location of the addition due to the lake and side yard setbacks and the layout of the home.
3. The granting of this variance will maintain the essential character of the locality.
4. The practical difficulty involves more than economic considerations.
5. Granting the variance would allow a use that is allowed in the zoning district in which the subject property is located.
6. The terms of the variance are consistent with the Carlton County Community-Based Comprehensive Plan. The intention of the required setback is to assure access to the septic tank for maintenance or repair. The proposed deck requires a 7 ½ foot setback which is reasonable in this case.

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.

Variance #311013 Michael and Kimberly Smith

Motion by Bruning, seconded by Hill and supported by all yea votes to approve the variance for the following reasons:

Justifications

1. The property owner is proposing to use the property in a reasonable manner not permitted by this Ordinance.
2. The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners. The difficulties are alleviated.
3. The granting of this variance will maintain the essential character of the locality.
4. The practical difficulty involves more than economic considerations.
5. Granting the variance would allow a use that is allowed in the zoning district in which the subject property is located.
6. The terms of the variance are consistent with the Carlton County Community-Based Comprehensive Plan. The intent of the ordinance is to allow for maintenance of the septic system and to protect the integrity of the tank and the foundation. This variance is in line with the intentions of the ordinance.

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. The deck shall remain an open deck and shall not have a roof or side walls.

Variance #311014 Daryl and Linda Bong

Motion by Bruning, seconded by Hill and supported by all yea votes to approve the variance for the following reasons:

Justifications

1. The property owner is proposing to use the property in a reasonable manner not permitted by this Ordinance.
2. The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners. The applicant has no other real options. The road is to the North, the septic is to the South.
3. The granting of this variance will maintain the essential character of the locality. There are very few structures in the area and at least one is similarly close to the road.
4. The practical difficulty involves more than economic considerations.
5. Granting the variance would allow a use that is allowed in the zoning district in which the subject property is located.
6. The terms of the variance are consistent with the Carlton County Community-Based Comprehensive Plan, as it allows a reasonable use of this property.

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.

Other Business:

Review (Motion to approve or deny) Revision of Variance #311010.

Variance #311010: Richard A. Gresczyk, Sr.

As the members had all reviewed the August 12, 2011 Revised Plan of Variance #311010 prior to tonight's meeting, Motion by Bruning, seconded by Hill and supported by all yea votes to approve the revised plan for Variance #311010 which was submitted to the Zoning

Administrator on August 12, 2011 by the applicant (Richard A. Gresczyk, Sr.) which reduces the 26' wide bedroom addition to 20' to allow the 16' x 20' recreational room to be placed closer to the existing dwelling in order to comply with the minimum setback of 10' from the existing septic tank.

The 55' setback from the centerline of Tamarack Lake Road/County Road 128 and seven conditions approved on July 26, 2011 remain in effect.

Justifications

1. The variance is in harmony with the general purposes and intent of the official control as the request allows creating a buildable lot on a property with a relatively new septic system and well. The lot is approximately 44% of the required minimum lot size. Article 3, Section 8, Subdivision C of Ordinance #27 would allow him to build at 50% of the required lot area without a variance as the lot was created prior to the regulations being established.
2. The variance is consistent with the Carlton County Community-Based Comprehensive Plan.
3. The applicant is proposing to use the property in a reasonable manner not permitted by the official control.
4. The practical difficulty is due to circumstances unique to this property.
5. The need for the variance was created by actions other than the landowner or prior landowners. The lot was created prior to 1968 when an ordinance was created with minimum lot size requirements.
6. The variance will not alter the character of the area.
7. The practical difficulty involves more than economic consideration as the variance allows a reasonable use of the non-conforming property given the required setbacks.

Conditions (Conditions approved at the July 26, 2011 Board of Adjustment Meeting listed below, apply to the revised plan approved on August 23, 2011).

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 two years 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 complete the required mitigation practices by September 1, 2012 and maintain the practices following that time.
6. No vehicles or equipment shall be parked between the garage and road right-of-way.
7. The removal of the existing travel trailer, which is currently parked near the lake and capable of connecting to the existing septic system, within two years of the granting of the variance or when the additional bedroom is ready for occupancy (whichever occurs first).
8. The removal of the existing outhouse and storage shed.

If there is a September Board of Adjustment meeting, the meeting will be held on Tuesday September 27th (4th Tuesday), not September 20th.

Motion by Hill, seconded by Bruning, and supported by all yea votes to close the Board of Adjustment meeting at 9:04 PM.

Respectfully submitted,

Steve Bassa
Recording Secretary

BofA/Minutes/2011/8-23-11 jlm