

Draft
MINUTES OF THE CARLTON COUNTY BOARD
OF ADJUSTMENT MEETING
March 16, 2021

- (1) Zoning Office Representative Dave Hurst called the meeting to order at 7:00 p.m.
- (2) Members Present: John Manninen, Howard Eskuri.
Members Absent: Jack Ezell, Thomas Skare (Alternate).

Ex Officio Members Present: Zoning Office Representative Dave Hurst.
Ex Officio Members Absent: None.
- (3) Election of Chair: Motion by Eskuri, seconded by Manninen, and supported by all yea votes to nominate Ezell as 2021 Board of Adjustment Chair.
- (4) Election of Vice-Chair: Motion by Manninen, seconded by Eskuri and supported by all yea votes to nominate Eskuri as 2021 Vice-Chair.
- (5) Vice-Chair Eskuri took control of meeting.
- (6) Motion by Eskuri, seconded by Manninen, and supported by all yea votes to approve the December 15, 2020, Board of Adjustment meeting minutes as presented.
- (7) Old business: None
- (8) Vice-Chair Eskuri called the Public Hearing to order at 7:02 p.m.
- (9) Vice-Chair Eskuri read that the legal ad was sent to the Star Gazette on February 25, 2021, and published in the Star Gazette on March 4, 2021. The legal ad was sent to the Pine Knot on February 25, 2021, and published in the Pine Knot on March 5, 2021.
- (10) Vice-Chair Eskuri read the *Finality of Decisions* from Zoning Ordinance 27.
- (11) Vice-Chair Eskuri read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27.
- (12) Variances

a) **Variance Request #321001 – Brian Maxwell**

Brian Maxwell of 4833 Lazy Pine Road, Moose Lake, MN 55767 has requested a variance to replace a nonconforming 20 feet by 23 feet storage building with a 22 feet by 30 feet storage building. The storage building is considered nonconforming as it does not meet the required setback from the road right-of-way. The subject property is described as Lot 10, Block 2 of 1975 Addition to Lazy Pines Plat in Section 31, Township 46 North, Range 19 West in Moose Lake Township. The property address is 4833 Lazy Pine Road (PIN 63-205-0380).

Mr. Maxwell was present to speak on his behalf. Mr. Maxwell said he would like to replace his existing 20 feet by 23 feet garage with a new building in the same location. He said the new garage will have a concrete slab. He said the new building will be a little bigger to accommodate his uses. He said his lot is very narrow and long, so he would need a variance to construct a garage anywhere on his property. He said there are similar structures in the neighborhood that are even closer to the road than what he is proposing.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. Maxwell narrated the video.

Eskuri read Heather Cunningham's Development Review #321001 dated March 10, 2021.

Eskuri asked if the board had any questions.

Eskuri asked if anyone in the audience was neutral or in support of this request. George Milczark of 4818 Lazy Pine Road, Moose Lake, MN 55767 was in support of the request. Mr. Milczark said he received a variance a few years ago for a garage even closer to the road than Mr. Maxwell's.

Eskuri read a written correspondence from Moose Lake – Windemere Sanitary Sewer District Executive Director Darla Hall in support of the request.

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

Eskuri read the six conditions listed in the Development Review and asked if the applicant understood those conditions. Mr. Maxwell said yes.

b) Variance Request #321002 – David Otterson

David Otterson of 3101 Pine Grove Drive, Cloquet, MN 55720 has requested a variance to construct an addition onto a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback to the ordinary high water level. The request also includes exceeding the maximum lot coverage standard of 25%. The subject property is described as Lot 4, Block 1 of Pine Grove Addition Plat in Section 33, Township 49 North, Range 18 West on Big Lake in Perch Lake Township. The property address is 3101 Pine Grove Drive (PIN 92-230-0080).

Mr. Otterson was present to speak on his behalf. Mr. Otterson said his variance is required because he has too much impervious surface on his property. He said that he has been in contact with the Zoning office on removing a significant amount of asphalt to reduce the amount of impervious surface. He said that it might not have been clear on his plan how much impervious surface he planned on removing.

Hurst pointed out to the Board that the size of Mr. Otterson's addition was 16 feet by 32 feet, not 16 feet by 35 feet as listed in Development Review #321002. That was a typo. Mr. Otterson agreed.

Mr. Otterson said that he has met with Resource and Recycling Coordinator Karola Dalen in regards to his shoreland mitigation plan.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. Otterson narrated the video.

Eskuri read Heather Cunningham's Development Review #321002 dated March 10, 2021.

Eskuri asked Mr. Otterson if the screen house will be used as a second dwelling in the future. Mr. Otterson said it will be used as a screen house in the future.

Eskuri asked Mr. Otterson if he will remove asphalt to reduce the amount of impervious surface. Mr. Otterson said yes.

Eskuri asked Mr. Otterson if he will get his septic system inspected. Mr. Otterson said yes.

Eskuri asked if the board had any questions.

Eskuri asked if anyone in the audience was neutral or in support of this request. Keith Depre of 833 Brower Drive, Cloquet, MN 55720 was neutral of the request. Mr. Depre said he was there representing Perch Lake Township. Mr. Depre said the Township watches the variances granted on Big Lake because they have concerns over the water quality in Big Lake, especially since the sanitary sewer project fell through. He said he would like to commend Zoning Administrator Cunningham, and he thinks the shoreland mitigation plans are very important. He said that with some of the shoreland mitigation plans he doesn't think the property owners have followed through with them. He said reducing impervious surface will help the lake quality. He said with the conditions recommended by Zoning Administrator Cunningham, Perch Lake Township would support the request.

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

Eskuri read the nine conditions listed in the Development Review and asked if the applicant understood those conditions. Mr. Otterson said yes.

(13) The public hearing closed at 7:36 p.m.

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

Variance Request #321001 – Brian Maxwell

A motion was made by Manninen, seconded by Eskuri, and carried by all yea votes to **Approve** the findings of fact, decision, and six conditions listed on Carlton County Findings of Fact Worksheet dated March 16, 2021, and signed by Board Vice-Chair Eskuri.

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 a slightly larger (2 feet by 7 feet) accessory structure with a concrete floor.

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 in meeting the ordinance requirements is the creation and development of this lot which is irregular-shaped and also has wetland and topography constraints. The property drops off sharply to the pond behind the 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. Many structures along Lazy Pine Road encroach on the setback requirements. Several of the garages appear to be located in the road right-of-way. They are sized similarly to the applicant's request.

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 applicant would like to replace an accessory structure with a slightly larger structure and with a concrete floor.

- 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 addresses setbacks from roadways. Road setbacks 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. This office is not aware of any past issues with a reduced setback.

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: Replace a nonconforming 20 feet by 23 feet storage building with a 22 feet by 30 feet storage building.

Denied: Not applicable.

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 applicant 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. If this condition is not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.
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. Vehicles, boats, trailers, etc. shall not be parked between the garage and roadway.
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 #321002 – David Otterson

A motion was made by Manninen, seconded by Eskuri, and carried by all ye a votes to **Approve** the findings of fact, decision, and nine conditions listed on Carlton County Findings of Fact Worksheet dated March 16, 2021, and signed by Board Vice-Chair Eskuri.

FINDINGS OF FACT:

- a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*
Yes with modifications No Why or why not?

This office does not believe the request as proposed is reasonable. The applicant has an existing dwelling footprint of 1,408 square feet plus a 14 feet by 16 feet screen house (224 square feet) that was converted into a second dwelling. This totals 1,632 square feet of dwelling footprint and with the addition, a total of 2,144 square feet of dwelling footprint. The application indicates the addition will be for a sun room, exercise room and extra space/storage. It is not reasonable to have 34% impervious surface on a riparian lot. This office would consider it reasonable if the second dwelling was converted back into a screen house as permitted, 512 square feet of impervious surface was removed to offset the addition and the required depth of shoreland buffer was increased from 25 feet to 37.5 feet.

- 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 platting and development of the property prior to shoreland regulations.

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

The granting of the variance with respect to the addition and converted second dwelling could alter the essential character of the locality. While several of the dwellings along this shoreline do not meet the setback requirements from the OHWL, the average footprint for a dwelling is 1,612 square feet. The proposed square footage, with second dwelling and addition is 2,144 square feet. The proposed impervious surface is 34%. The character of the neighborhood could be preserved if the second dwelling was converted back into a screen house as permitted, 512 square feet of impervious surface was removed to offset the addition and the required depth of shoreland buffer was increased from 25 feet to 37.5 feet.

- 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 practical difficulty for the subject property appears to be the platting and development of the property prior to shoreland regulations.

- 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 *with modifications* No *Why or why not?*

The Carlton County Community-Based Comprehensive Plan specifically addresses preserving and restoring native vegetation along shorelines and reducing surface water runoff to lakes. The applicant has an approved Shoreland Mitigation Plan. The Shoreland Mitigation Plan and the application do not specifically address the 34% lot coverage, which is not consistent with the Carlton County Community-Based Comprehensive Plan or ordinance. If conditions were placed on the request such as requiring the second dwelling be converted back into a screen house as permitted, 512 square feet of impervious surface be removed to offset the addition and the required depth of shoreland buffer be increased from 25 feet to 37.5 feet, the variance would be consistent with the Carlton County Community-Based Comprehensive 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 onto a nonconforming dwelling.

Denied: Not applicable.

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 applicant 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. If this condition is not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.
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 shoreland mitigation plan shall have an increased buffer depth from 25 feet to 37.5 feet. The revised plan shall be submitted to this office by June 1, 2021. The shoreland mitigation plan shall be implemented by June 1, 2023.
6. The septic system was permitted under Septic Permit #200010. The system is sized for two bedrooms. The system requires compliance inspection and must be completed by June 1, 2021.
7. The second dwelling shall be converted to a screen house, as permitted under Variance #300015 and Zoning Permit #100128, by June 1, 2022.
8. The maximum lot coverage shall be reduced by 512 square feet by June 1, 2023.

9. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

(15) Other Business: None.

(16) A motion was made by Manninen, seconded by Eskuri, and supported by all yea votes to close the Board of Adjustment meeting at 7:40 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary