

**DRAFT**  
**MINUTES OF THE CARLTON COUNTY**  
**BOARD OF ADJUSTMENT MEETING**  
**May 19, 2020**

- (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. Members Absent: None.
- (3) Motion by Manninen, seconded by Skare, and carried to approve the March 17, 2020, Board of Adjustment meeting minutes as presented.
- (4) Old business: None.
- (5) Chairman Ezell called the Public Hearing to order at 7:02 p.m.
- (6) Chairman Ezell read the COVID-19 and Open Meeting Law Statement.
- (7) Chairman Ezell read that the legal ad was sent to the Star Gazette on April 30, 2020, and published in the Star Gazette on May 7, 2020. The legal ad was sent on April 30, 2020, and published in the Pine Knot on May 8, 2020.
- (8) Chairman Ezell read the *Finality of Decisions* from Zoning Ordinance 27.
- (9) Chairman Ezell read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27.
- (10) Variances

a) **Variance Request #320004 – James Benson**

James S. Benson of 5129 County Road 6, Kettle River, MN 55757 has requested a variance to allow a deck and construct an addition onto a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback from the ordinary high water level. The request includes constructing two additions onto a nonconforming garage. The garage is considered nonconforming as it does not meet the required setback from the road right-of-way. The two lots together are considered one buildable lot and are legal, nonconforming. The request includes allowing two years to complete the project. The subject property is described as Lots 1 and 2 of Wood Haven Plat in Section 18, Township 48 North, Range 20 West on Eagle Lake in Eagle Township. The property address is 1876 Freeman Point Road (PIN 90-270-0020 and 0040).

James Benson was present to speak on his behalf. He said he and his wife had purchased the property in 2018. One of the reason they were attracted to the property is because it is heavily wooded. They cannot see the neighbors to the north or south of them when the leaves are foliated. He said the property does have a steep slope which makes building on the property challenging. He said they have four different requests. The first request is to retain a deck that was built by a previous owner. He was unaware when they purchased the property that the deck was not permitted. A neighbor told Mr. Benson the deck was built approximately ten years ago. He said after discussing with zoning office staff, the best course of action would be to ask to retain the deck on this variance. It is not meeting the required fifty feet setback from Eagle Lake.

Mr. Benson said the second request would be to add a twenty feet wide by thirty feet long addition with a full basement. Mr. Benson and his wife would like to make the cabin a full time residence. He said if the

deck was compliant then this request would not need a variance; it meets all other required setbacks. He said the roof line would be the same as the existing cabin. He said the color of the addition would match the dark brown color of the existing cabin and would blend into the natural surroundings. The total addition would be 600 square feet bringing the total square footage of the cabin up to 1200 square feet. He said including the deck the total square footage would be 1440 square feet on Lot 2.

Mr. Benson said there is an existing twenty-two feet by forty feet garage on Lot 1. He said they would like to add a twenty-two feet by thirty feet addition to the south side of the garage and a twenty-two feet by twenty-four feet addition to the north side of the garage. He said that would bring the total garage square footage slightly in excess of 2100 square feet. He said he needs the additional garage space to store his vehicles and equipment. He said he has a wheeled fish house, four vehicles, compact tractor, four wheeler, two boats, and a pontoon. He prefers to store his personal property in a building and not scattered about the property. This would keep his items secure and keep up the ambience of the property. He said he talked to his immediate neighbors to the north and south and they are in support of his request. He said he worked with Zoning Inspector Hurst on doing some research regarding comparable garages within a half mile of his project. He said there are several garages in the 1000-1400 square foot range, and there are two around 1900 square feet that are near his property. He said in the summer his garage is not visible from the lake; it is visible from the road. He said 3 doors down on the opposite side of the road than the lake there is a 2800 square foot storage building. He said he just wanted to give the Board some comparable properties in the immediate neighborhood. He contacted the property owner across the road about purchasing some property, but that property is going to be kept in a forest management plan and is not for sale. He said he talked to Eagle Lake Township Supervisor Kenny Koivisto and they have no concerns with building the garage that close to the road.

Mr. Benson said the last point he wanted to make was that when you take the total square footage of the two lots combined, only eleven percent of lot coverage would be occupied by buildings. He said that is substantially less than what the maximum requirement is in the zoning ordinance. He would also like to request two years to complete the project to allow the site preparations to go through a freeze thaw cycle.

Ezell asked if there were going to be any improvements between the garage and the lake shore. Benson said no, it will remain wooded. He is meeting with Resource and Recycling Coordinator Karola Dalen regarding his shoreland mitigation plan. He wants to maintain the existing privacy and will plant anything Dalen recommends.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320004 dated May 14, 2020.

Ezell read the seven conditions listed in the development review and asked if the applicant understood and was okay with those seven conditions. Mr. Benson said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. Brad Jeska of 1772 Freeman Point Road, Cromwell, MN 55726 was in support of the request.

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

b) **Variance Request #320005 – Brad Jeska**

Brad Jeska of 2170 96<sup>th</sup> Street East, Inver Grove Heights, MN 55077 has requested a variance to replace an existing nonconforming garage with a nonconforming garage. The garage is considered nonconforming as it does not meet the required setback from the road right-of-way. The subject property

is considered legal, nonconforming. The subject property is described as Lot 27 of Wood Haven Plat in Section 18, Township 48 North, Range 20 West on Eagle Lake in Eagle Township. The property address is 1772 Freeman Point Road (PIN 90-270-0540).

Brad Jeska was present to speak on his behalf. Mr. Jeska didn't realize that a variance was required when he filed the paperwork for a zoning permit. He said his father had previously been granted a variance for a twenty-four feet by twenty-four feet garage not meeting the road setback. He said they are permanently moving to Eagle Lake in eight days. He said his 1 ton truck does not fit in the existing garage. They would like to make the garage a little bit bigger for more room. He said the garage will not encroach any further on the road setback than the existing garage.

Ezell asked if the garage addition would be thirteen feet from the porch. Mr. Jeska said yes.

Ezell asked if the Board had any questions.

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

Ezell read Heather Cunningham's Development Review #320005 dated May 14, 2020.

Ezell read the seven conditions listed in the development review and asked if the applicant understood and was okay with those seven conditions. Mr. Jeska 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.

c) **Variance Request #320006 – Rodney and Debbie Davis**

Rodney and Debbie Davis of 1791 Olsonville Circle, Carlton, MN 55718 have requested a variance to construct an addition and two decks on a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback from the road right-of-way. The applicant requested on May 1, 2020, to add the potential rearrangement of doors and windows to the request. The property is described as Lots 4 and 5 of First Addition to Olsonville Plat in Section 10, Township 48 North, Range 17 West in Twin Lakes Township. The property address is 1791 Olsonville Circle (PIN 81-350-0080 and 0100).

Rodney Davis was present to speak on his behalf. He said they own lots 4 and 5 in Olsonville Circle and the house is on Lot 4. He said the proposed addition would be on the west side of the house, it will not be encroaching any closer to the road than the existing house. He said they have city sewer. He said the addition would be a basement, main level, and upper bedroom. He didn't think it would change the character of the neighborhood, as there is a two story house across the street. He said he has talked to several neighbors and they are in support of his request.

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

Ezell read Heather Cunningham's Development Review #320006 dated May 14, 2020.

Ezell read the four conditions listed in the development review and asked if the applicant understood and was okay with those four conditions. Mr. Davis 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.

d) **Variance Request #320007 – Jerod Clampitt**

Jerod Clampitt of 1602 Graham Lake Road, Holyoke, MN 55749 has requested an after-the-fact variance to allow a nonconforming dwelling with attached decks. The dwelling is considered nonconforming as it does not meet the required setback from the road centerline. The property is described as part of the Southeast ¼ of the Northeast ¼ in Section 3, Township 46 North, Range 18 West in Barnum Township. The property address is 3757 County Road 11 (PIN 39-010-0415).

Jerod Clampitt was present to speak on his behalf. He said he purchased the property a while ago (zoning office note: unrecorded deed dated 3/31/2020) and there was an old house on the property that has been there for many years. His plans were to fix the house up for his son, because his son's grandparents live about a half a mile away. He said it was going to be his graduation present. He said he is a contractor by trade and due to road restrictions being on, he had time to dig into the house. He said once he started working on the house the rafters were shot and it was in bad condition. He said he tried to contact the county but he couldn't get a hold of anyone due to the corona virus. He said he didn't know the side door of the courthouse was open. He said had he known the house was too close to the road he would have left the existing structure standing and tried to fix it up. He said he tore the whole house down and built a new house on the existing foundation. He said he did fix a few foundation blocks that were falling apart.

Ezell said he was surprised to learn that the applicant was a contractor and did this work without getting a permit.

Mr. Clampitt said he has been a building contractor for twenty five years. He said once he started tearing down the roof and walls he made some calls to the county but was not able to speak to anyone. He said he has three employees he wanted to keep busy, and he didn't realize it was too close to the road, so he figured he could just come in and get a permit and he would be fine. He said they did leave the project after the zoning office came out for the development review. He said there is a row of big pine trees between the road and the house and it never occurred to him the house was too close to the road.

He said he does not know the history of the septic system or well. Hurst indicated the zoning office has no record of the septic system. Mr. Clampitt indicated he had planned on having a new septic system and well installed. He said the house sits on five acres so there is plenty of room to do stuff.

Ezell said once a building is demolished that doesn't meet the setback it's required that the new building meets the setback. Mr. Clampitt said that if he would have realized the house was too close to the road he would have left it and fixed it up instead of demolishing the whole structure.

Manninen asked if the house had a full basement under it. Clampitt said it was two thirds crawlspace and one third basement. He said the full basement was opposite of the road side. He said the blocks that were replaced were in the crawlspace. After they tore into the house he said they discovered the house had been added onto 3 times.

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

Ezell read Heather Cunningham's Development Review #320007 dated May 14, 2020.

Ezell read the three conditions listed in the development review and asked if the applicant understood and was okay with those three conditions. Mr. Clampitt said yes.

Ezell asked Mr. Clampitt if he has had any discussions with the zoning office in regards to what his practical difficulty might entail. Mr. Clampitt said if he would have realized that there were going to be

issues he would have done things differently. He said now that it's already built it would suck to move it. He doesn't see any problems with the setback.

Skare said not knowing the rules is not a practical difficulty, there needs to be a reason why he built it there. Mr. Clampitt said once he started tearing into the house and found it needed more work he tried to call the county but could not get a hold of anyone. He said he left messages too. He said he had some big jobs starting once road restrictions went off and he was just using this job as a filler.

Ezell asked Mr. Clampitt that being a contractor, would his normal process involve getting a permit? Clampitt said yes he gets permits a lot of the times, sometimes the homeowner gets them. He had a variance permit with the county in the past for his Graham Lake property. He said once he got the roof torn off he had to make a decision. When he couldn't get a hold of the county he decided to keep going with demolition.

Manninen asked Mr. Clampitt when the project started. Mr. Clampitt said a month before he received the letter from the zoning office. Manninen then asked Mr. Clampitt when did he call about the permit. Mr. Clampitt said Zoning Inspector Hurst let him know he was too close to the road and he came into the office after that (Mr. Hurst sent a letter dated April 17, 2020, to the current owner of record who contacted Mr. Clampitt). He said as soon as he was notified he came and got the variance application in.

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. Craig Modean of 3756 County Road 11, Barnum, MN 55707 responded via telephone that he was in opposition of the request. Mr. Modean said this appears to be a complete disregard for zoning. He said he is a licensed contractor and if this is the way things operate he feels cheated for paying licensing and other fees.

(11) The public hearing closed at 8:22 p.m.

(12) The Board of Adjustment meeting re-opened at 8:50 p.m.

#### **Variance Request #320004– James Benson**

A motion was made by Manninen, seconded by Skare, and carried to **Approve** the findings of fact, decision, and six conditions listed on Carlton County Findings of Fact Worksheet dated May 19, 2020, and signed by Board Chair Ezell. Eskuri volunteered to abstain due to a conflict of interest.

#### **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 dwelling. The applicant did not construct the deck and assumed the deck was permitted when he purchased the property. It seems reasonable to allow it to remain. The applicant's addition meets the setback requirements established for this lot. This office is not certain it is reasonable to go from an 880 square feet garage to a 2,112 square feet garage. The applicant indicated verbally that because of the steep slope down to the lake, the garage has to be narrow. The applicant indicated that by the time you fit in an ice house, boat and vehicles single file, most of the space is used up. The applicant indicated he reached out to the property owner across the street as a potential location for a larger garage and they are not interested in selling. The applicant indicated the township did not have issues with its proximity to Freeman Point Road.

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 development of the property prior to shoreland regulations adopted in 1972. The subject property was created in 1965. The subject property is also not very deep (approximately 115 feet in lot depth) and both the OHWL and road right-of-way setback cannot be met. The lot is located on a steep slope (26% grade).

- 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 dwelling has been in this location since 1978 and the applicant is not requesting to encroach further on the setback to the OHWL or 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 applicant would like to turn the seasonal property into a year-round home.

- 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 specifically addresses preserving and restoring native vegetation along shorelines and steep slopes. The applicant has an approved Shoreland Mitigation Plan. The Carlton County Community-Based Comprehensive Plan also 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, and it appears the township did not have an issue with it.

### **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: Allow a deck and construct an addition onto a nonconforming dwelling. Construct two additions onto a nonconforming garage. Allow two years to complete the project.

*Denied: NA*

### **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 two years. All work must begin within two years 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 applicant shall institute the mitigation practices by May 19, 2021.
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 #320005 – Brad Jeska**

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 May 19, 2020, 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 the construction of a slightly larger garage (approximately 320 square feet larger). The proposed garage will not encroach any further on the setback requirements permitted under the previous variance.

- 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 plat prior to 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. The garage has been in this location since 1984 and the applicant is not requesting to encroach further on the setback to the road right-of-way. Most of the garages along Freeman Point Road encroach on the 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 of this property. The applicant would like to turn the seasonal property into a year-round home.

- 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 an existing nonconforming garage with a nonconforming garage.*

*Denied: NA*

**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 applicant shall have the septic system inspected by September 1, 2020.
6. The applicant shall install gutters on the garage. The stormwater from the gutters shall be directed away from the septic system. The gutters shall be installed by May 19, 2021.
7. 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 #320006 – Rodney and Debbie Davis**

A motion was made by Manninen, seconded by Eskuri, and carried to **Approve** the findings of fact, decision, and four conditions listed on Carlton County Findings of Fact Worksheet dated May 19, 2020, 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?

It appears the applicants are proposing a reasonable use of the property. The applicants are proposing an addition and two decks that will not encroach any further on the road right-of-way.

- 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 development of the property prior to 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. There are other structures along Olsonville Circle that do not meet the setback 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 for this property. The practical difficulty appears to be the development of this property prior to 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. 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: Construct an addition and two decks on a nonconforming dwelling and rearrangement of doors and windows.*

*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 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 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.

**Variance Request #320007 – Jerod Clampitt**

A motion was made by Eskuri, seconded by Manninen, and carried to **Deny** the request in accordance with the findings of fact, decision, and three conditions listed on Carlton County Findings of Fact Worksheet dated May 19, 2020, as amended 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?*

It appears the applicant is proposing a reasonable use of the property. The applicant is proposing to retain construction that he completed without a permit but is located on the same foundation as the previous dwelling.

- 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?*

This office could not identify a practical difficulty other than reusing the existing foundation, a hardship created by a previous property owner. The dwelling could have been constructed to meet the setback requirements. The applicant needs to provide a practical difficulty related to this request and not created by a previous property owner before the request can be granted.

- 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 could alter the essential character of the locality. It appears that structures within this locality meet the setback to the road centerline. However, the dwelling has been in this location since at least 1968 and could be considered part of character of the locality.

- d. *Does the practical difficulty involve more than economic considerations?*  
Yes  No  *Why or why not?*

It appears that economic considerations constitute the practical difficulty for reasonable use for this property. The dwelling could have been constructed to meet the setback to the road centerline but the applicant wanted to reuse the existing foundation. The applicant needs to provide a practical difficulty related to this request and not created by a previous property owner before the request can be granted.

- 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 A-2 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.

As this request is an after-the-fact, additional factors are considered:

- i. *Why did the applicant fail to obtain a variance, and did the applicant act in good faith;*

The application indicates the applicant did not think it would hurt anything to have the new home in the same location. The applicant did not act in good faith. As a contractor, he is aware permits are required for construction. The applicant has obtained a variance and zoning permits in the past.

- j. *Did the applicant attempt to comply with the law by obtaining permits;*

The applicant is attempting to comply by the submission of this after-the-fact variance request.

- k. *Did the applicant obtain a permit from another entity that violated the law;*

It does not appear that the applicant obtained a permit from another entity that violated the law.

- l. *Did the applicant make a substantial improvement in the property;*

The applicant made a substantial improvement to the property with the construction of the new dwelling.

m. *Did the applicant complete repairs, construction before the applicant was informed of the impropriety;*

The applicant completed the construction before he was informed of the impropriety.

n. *Is the nature of the property residential/recreational and not commercial;*

The nature of the property is residential.

o. *Are there similar structures in place;*

There are not similar structures in place in the locality as noted above.

p. *Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced?*

The benefits of moving the dwelling do not outweigh the detriment to the applicant.

**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.*

*If the applicant can provide a practical difficulty other than one a previous property owner created or a practical difficulty related to economic considerations, the variance could be granted.*

***Denied: Request denied for after-the-fact nonconforming dwelling with attached decks.***

(13) Other Business. There was none.

(14) A motion was made by Eskuri, seconded by Manninen, and supported by all yea votes to close the Board of Adjustment meeting at 8:55 p.m.

Respectfully submitted,

Dave Hurst  
Recording Secretary