

DRAFT
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
May 21, 2019

- (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 Chris Berg.
- (3) Motion by Eskuri, seconded by Skare, and carried to approve the February 19, 2019, 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 that the legal ad was sent to the Star Gazette on May 2, 2019, and published in the Star Gazette on May 9, 2019.
- (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 #319002 – Shane Kuhlmeier**

Shane Kuhlmeier of 4864 Mirror Way, Moose Lake, MN 55767 has requested a variance to replace a nonconforming water-orientated accessory structure (WOAS). The WOAS is considered nonconforming as it does not meet the required setback from the side yard line. The property is described as Lots 5 and 6 of Lake Park Plat in Section 31, Township 46 North, Range 19 West on Sand Lake in Moose Lake Township. The property address is 4864 Mirror Way (PIN 63-190-0100 and 63-190-0120).

Shane Kuhlmeier was present to speak on his behalf. Mr. Kuhlmeier said the reason they're requesting a variance is that the WOAS is 28 feet from the OHWL but only 2 feet from the side yard line. He said he had taken some of the siding off to see how it was constructed and found that it will fall down if he proceeded further, so he cannot salvage the building. He said in order to move the building from the side yard line, the shoreline would be disturbed. He said it is more practical to replace the structure on the existing foundation of 12 feet by 16 feet, and the building height will be 10 feet with a single pitch. He said the front will be exactly 10 feet, and it will slope to 8 feet in the back. He also indicated the structure will no longer be a sauna which is not a permitted use in the ordinance.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #319002 dated May 16, 2019.

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

Ezell asked if anyone in the audience was neutral or in support of this request. Mr. Kuhlmeier said they support the request.

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

Ezell read correspondence from Kevin Carlson of MNDOT Office of Aeronautics, dated May 21, 2019, stating that the location of this variance request would not affect the current airport zoning ordinance.

b) **Variance Request #319003 – Guy and Sarah Wefelmeyer**

Guy and Sarah Wefelmeyer of 878 Wolner Drive, Cloquet, MN 55720 have requested a variance to replace a nonconforming dwelling and attached deck with a nonconforming dwelling, attached deck and attached garage. The structure is considered nonconforming as it does not meet the required setback from the ordinary high water level (OHWL) of Big Lake. The property is described as Part of the Northwest ¼ of the Southwest ¼ in Section 21, Township 49 North, Range 18 West on Big Lake in Perch Lake Township. The property address is 878 Wolner Drive (PIN 92-010-3620).

Guy and Sarah Wefelmeyer were present to speak on their behalf. Mr. Wefelmeyer said their home was originally built as a cabin, but it was converted to a full time home. He said when it was just his wife and him, it worked out, but now they have three children. He said they really like where they're at and would like to rebuild something more suitable for a family with three children. Mr. Wefelmeyer said their existing home is 66 feet from the OHWL, and his original request was going to be to rebuild at 66 feet. He described his lot layout including a detached garage, a turnaround, and the limitations of Wolner Drive which would not allow for them to meet the 100 feet setback to the OHWL. He said he understands the need for the setback requirements, so he said he would be happy with going with what was put forth in the recommendation. He said they have no intention to build and sell; he wants to live there as long as they can. Chairman Ezell asked if he could live with the 75 feet setback. Mr. Wefelmeyer said yes.

Ezell asked if the Board had any questions.

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

Ezell read Heather Cunningham's Development Review #319003 dated May 16, 2019.

Ezell read the eight conditions listed in the development review and asked if the applicant and representative understood those eight conditions. Mr. Wefelmeyer said yes.

Ezell asked if anyone in the audience was neutral or in support of this request.

Matt DeCaigny of 1591 County Road 7, Sawyer, MN stated he is also the adjoining property owner to the west of the applicant and is the brother/brother-in-law of the applicant. He said he is in favor of the request. He said the setback doesn't bother him and wouldn't obstruct his view.

Robert Westerlund of 844 Wolner Drive, Cloquet, MN said he is in support of the variance request as well. He said Guy and Sarah have been wanting to do this for many years, and it will be a great improvement to their property. He would like them to continue to live there for many years to come.

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

Ezell read correspondence from Susan and Philip Johnson of 3294 Welter Drive, Cloquet, MN, dated May 19, 2019, in support of the variance request to replace their dwelling and deck.

(10) The public hearing closed at 7:37 p.m.

(11) The Board of Adjustment meeting re-opened at 7:40 p.m.

Variance Request #319002 – Shane Kuhlmeiy

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 May 21, 2019, 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 is a reasonable request to rebuild a WOAS on the existing foundation with the exact same dimensions. The existing WOAS is 28 feet from the OHWL and 2 feet from the side yard line. The ordinance allows a WOAS to be 10 feet from the OHWL. However, moving it closer to the OHWL and away from the side yard line would disturb the slope leading down to the lake. The slope rises 10 feet above the OHWL of the lake over a distance of 30 feet (33% slope). Disturbing this area to relocate the WOAS could destabilize the slope. The WOAS has been in this location prior to official controls adopted in 1972 for shoreland property.

- 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 is that the structure was constructed prior to any official controls.

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

If the variance is granted, it should not alter the essential character of the locality as the structure has been in this location since at least 1972. The adjacent property to the south also has a WOAS along this property line that does not meet the side yard setback.

- 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 applicant would like to replace a deteriorating WOAS.

- 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 use of the property as a single family residence is a permitted use in the R-1 Zoning District. A WOAS is a permitted use for this structure; a sauna in this location is not a permitted use.

- 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. During the site visit, it was noted that the shoreline in front of the structure is well vegetated and the shoreline appears to be stable.

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 water-orientated accessory structure.

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 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. 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 water-oriented accessory structure shall be used solely for watercraft storage and storage of related boating and water-orientated sporting equipment.
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 #319003 – Guy and Sarah Wefelmeyer

A motion was made by Manninen, seconded by Eskuri, and carried to **Approve** the findings of fact, decision, and eight conditions listed on Carlton County Findings of Fact Worksheet dated May 21, 2019, 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 **((see statement in bold))** No *Why or why not?*

The applicants are not proposing a reasonable use of the property with a setback of 70 feet. It is not reasonable to more than double the size of the existing dwelling and allow a 70 feet setback to the OHWL. The dwelling can be moved back to at least 75 feet or it could be redesigned, such as shifting the location of the 8 feet by 14 feet front entry or removing it. A setback of 75 feet from the OHWL would still allow for approximately 65 feet between the proposed dwelling and garage. **This office would consider a request of a setback of 75 feet to the OHWL to be more reasonable.**

- b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*
Yes (see statement in bold) No Why or why not?

It is this office's opinion that a practical difficulty does not exist for this request as the proposal could be constructed or shifted to meet a setback of at least 75 feet from the OHWL and still allow access to the detached garage. This office does not consider having a space for a turnaround a practical difficulty. Most properties have a driveway that dead ends at their dwelling/garage and lack a turnaround. **The location of Wolner Drive would prohibit the proposal from meeting the setback of 100 feet from the OHWL but should not at 75 feet.**

- c. *If the variance is granted, it will not alter the essential character of the locality?*
Yes (see statement in bold) No Why or why not?

The granting of the variance for a dwelling at 70 feet from the OHWL could alter the essential character of the locality. The average setback for dwellings along Wolner Drive is 77 feet from the OHWL. **A dwelling setback of 75 feet would be more in line with the character of the neighborhood.**

- 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. This office does not feel a practical difficulty exists for a setback of 70 feet. This office does not consider having a space for a turnaround a practical difficulty. Most properties have a driveway that dead ends at their dwelling/garage and lack a turnaround. A setback of at least 75 feet would be a reasonable request.

- 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. Single family residences are a permitted use.

- f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*
Yes (see statement in bold) No Why or why not?

The terms of the variance appear to be in conflict with the Carlton County Community-Based Comprehensive Plan. The plan encourages preserving and restoring native vegetation along shorelines. As the dwelling can be constructed at least 5 feet further back, the variance would be in direct conflict with the intent of the plan as well as the ordinance at 70 feet from the OHWL. **A request of 75 feet from the OHWL would be more in line with the intent of the plan and ordinance.**

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: To replace a nonconforming dwelling and attached deck with a nonconforming dwelling, attached deck and attached garage meeting a setback of at least 75 feet to the OHWL.

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 dwelling with attached deck, bump-out, garage and front entry must meet a setback of at least 75 feet from the OHWL of Big Lake.
6. The applicant shall complete a septic compliance inspection by August 1, 2019.
7. The applicant shall institute the mitigation practices by May 21, 2020.
8. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

(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 7:42 p.m.

Respectfully submitted,

Chris Berg
Recording Secretary