

DRAFT
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
July 16, 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 Dave Hurst. Members Absent: None
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the June 18, 2019, Board of Adjustment meeting minutes as presented.
- (4) Old business: None.
- (5) Chairman Ezell called the Public Hearing to order at 7:01 p.m.
- (6) Chairman Ezell read that the legal ad was sent to the Star Gazette on June 27, 2019, and published in the Star Gazette on July 4, 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 #319008 – Kenneth and Sarah Mattinen**

Kenneth and Sarah Mattinen of 1544 Highway 210, Carlton, MN 55718, have requested a variance to construct a nonconforming deck, privacy fence/gate and lean-to. The structures are considered nonconforming as they will not meet the required setback from the centerline or road right-of-way. The property is described as Part of the Southeast ¼ of the Southeast ¼ of Section 2, Township 48 North, Range 17 West in Twin Lakes Township. The property address is 1544 Highway 210 (PIN 81-030-0580).

Mr. and Mrs. Mattinen, were present to speak on their behalf. Mr. Mattinen said they would like to add a wrap-around deck on the house. They would also like to add a lean-to to the garage and a privacy fence. He said the structures are non-conforming and they received a variance last year to build a garage. He said the deck was staked but it was hard to see because they had to cover up the stakes with chairs so their dog wouldn't eat them. He said the proposed structures will not be encroaching any closer to the road than their existing structures.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #319008 dated July 11, 2019.

Ezell read the five conditions listed in the development review and asked if the applicants understood and were okay with those five conditions. Mr. Mattinen 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.

b) **Variance Request #319009 – Clayton Alexander (Teresa Birkett)**

Clayton Alexander of 758 Seboe Road, Wrenshall, MN 55797, represented by Teresa Birkett (proposed purchaser of 2.5 acre parcel) of PO Box 95, Wrenshall, MN 55797, has requested a variance to subdivide his property without having two sites available for Type I Sewage Treatment Systems. The property is described as the West ½ of the Northwest ¼ of the Northeast ¼ of Section 9, Township 47 North, Range 16 West in Wrenshall Township. The property address is 758 Seboe Road (PIN 84-020-1380).

Teresa Birkett was present to speak on her behalf. Ms. Birkett said her son Clayton has a total of 40 acres and they would like to buy 2.5 acres from one of his 20 acre parcels to build. She said the only issue in subdividing is the septic system sites.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Ms. Birkett narrated the video.

Ezell read Heather Cunningham's Development Review #319009 dated July 11, 2019.

Ezell read the four conditions listed in the development review and asked if the representative understood those four conditions. Ms. Birkett 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 #319010 – Jacob Koecher**

Jacob Koecher of 2272 County Line Road, Nickerson, MN 55749 has requested a variance to replace the roof and trusses and construct an addition onto a nonconforming dwelling on a nonconforming lot. The dwelling is considered nonconforming as it does not meet the required setback from the road right-of-way. The lot is considered nonconforming as it does not meet the required lot width or lot area requirements. The property is described as Part of Lot 19 of the West Side Addition Plat in Section 20, Township 46 North, Range 19 West in Moose Lake Township. The property address is 4419 North Kenwood Avenue (PIN 63-350-0522).

Mr. Koecher was present to speak on his behalf. Mr. Koecher said he bought the house to fix it up. When he started fixing the roof he noticed that the sheathing and trusses were all rotten in the back portion of the house. Since he had to tear all of that off he thought it would be a good time to add a second story bedroom because the house is really small. He said the existing footprint of the house will not be expanded.

Ezell asked if the Board had any questions.

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

Ezell read Heather Cunningham's Development Review #319010 dated July 11, 2019.

Ezell read the five conditions listed in the development review and asked if the applicant understood those five conditions. Mr. Koecher said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

Ezell read a written statement from Moose Lake-Windemere Sanitary Sewer District in support of the request as long as construction does not encroach on their utility easement.

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

(10) The public hearing closed at 7:34 p.m.

(11) The Board of Adjustment meeting re-opened at 7:36 p.m.

Variance Request #319008 – Kenneth and Sarah Mattinen

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and five conditions listed on Carlton County Findings of Fact Worksheet dated July 16, 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?

The applicants are requesting a reasonable use of the property. The applicant would like to construct a deck, privacy fence/gate and lean-to without encroaching any further on the setback requirements to Highway 210.

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 applicants have indicated the practical difficulty in meeting the required setback from the centerline and road right-of-way is the unique shape of the lot that was created and developed 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. It appears that all of the structures in this neighborhood are located about the same distance from the centerline of Highway 210.

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. It appears that a practical difficulty is the creation and development of a substandard lot 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. Single family residences are 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 terms of the variance do not appear to be in conflict with the Carlton County Community-Based Comprehensive Plan and Ordinance. Setbacks from roadways 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. A reduced setback for this property should not cause any issues for snow removal or emergency vehicles.

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 a nonconforming deck, privacy fence/gate and lean-to. The structures are considered nonconforming as they will not meet the required setback from the centerline or road right-of-way.

Denied: NA

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.
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. 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 #319009 – Clayton Alexander (Teresa Birkett)

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 July 16, 2019, and signed by Board Chair Ezell.

FINDINGS OF FACT:

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

The property owner is proposing to use the property in a reasonable manner not permitted by ordinance. It could be argued that the use is permitted by ordinance as we allow for Type III systems. In 2018, 44 Type I systems were installed and 42 Type III systems were installed in Carlton County.

- b. *Economic considerations alone do not constitute a practical difficulty if a reasonable use for the property exists under the terms of this Ordinance.*
Yes No *Why or why not?*

Economic considerations alone do not constitute a practical difficulty for the property. The practical difficulty appears to be the soil type (Ontonagon silty clay).

- c. *The request will not effect a substantial change in the character of the neighborhood or will not result in a substantial detriment to neighboring properties.*
Yes No *Why or why not?*

The request should not change the character of the neighborhood or result in a substantial detriment to neighboring properties. As stated above, in 2018, 44 Type I systems were installed and 42 Type III systems were installed in Carlton County. Type III systems treat sewage just as well as Type I systems if used properly.

- d. *No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*
Yes No *Why or why not?*

The variance request is not for a use that is not permitted in an A-2 zoning district. The authorized representative is proposing a residential use of the property.

- e. *The practical difficulty is unique to the subject property and is not created by the property owner or prior property owners.*
Yes No *Why or why not?*

The practical difficulty is unique to the subject property and was not created by the property owner or prior property owners. It appears that the practical difficulty is related to the soil type.

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: Subdivide a property without having two sites available for Type I Sewage Treatment Systems.

Denied: NA

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.
2. The applicant must have an approved application for subdivision to the Carlton County Zoning Office within 12 months of granting the variance. 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.

Variance Request #319010 – Jacob Koecher

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and five conditions listed on Carlton County Findings of Fact Worksheet dated July 16, 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?

The applicant is requesting a reasonable use of the property. The applicant would like to replace the roof and trusses as well as a second story on a nonconforming lot on a nonconforming dwelling. The dwelling was constructed prior to official controls adopted in 1968.

- 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 development of a lot 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 dwelling has been in this location since prior to 1968. The proposal is not encroaching any further on 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. It appears that a practical difficulty is the development of this lot 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. Single family residences are 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 terms of the variance do not appear to be in conflict with the Carlton County Community-Based Comprehensive Plan and Ordinance. Setbacks from roadways 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 the roof and trusses and construct an addition onto a nonconforming dwelling on a nonconforming lot.

Denied: NA

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.
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. 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 ye a votes to close the Board of Adjustment meeting at 7:40 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary