

**Draft**  
**MINUTES OF THE CARLTON COUNTY**  
**BOARD OF ADJUSTMENT MEETING**  
**September 15, 2020**

- (1) Chairman Ezell called the meeting to order at 7:01 p.m.
- (2) Members Present: Jack Ezell, John Manninen, Howard Eskuri, Thomas Skare (Alternate), and Recording Secretary Chris Berg. Members Absent: None.
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the August 18, 2020, Board of Adjustment meeting minutes.
- (4) Old business: None.
- (5) Chairman Ezell called the Public Hearing to order at 7:04 p.m.
- (6) Chairman Ezell read that the legal ad was sent to the Star Gazette on August 27, 2020, and published in the Star Gazette on September 3, 2020. The legal ad was sent to the Pine Knot on August 27, 2020, and published in the Pine Knot on September 4, 2020.
- (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 #320021 – Marvin Donald Schuerman**

Marvin Donald Schuerman of 4614 South Arrowhead Lane, Moose Lake, MN has requested a variance to subdivide a legal, nonconforming lot into two nonconforming lots. The subject property is described as Lot 8 of Auditor's Subdivision #27 in Section 29, Township 46 North, Range 19 West in Moose Lake Township. The property address is 4614 South Arrowhead Lane (PIN 63-070-0160).

Marvin Donald Schuerman was present to speak on his behalf, along with his wife Verna Schuerman. Mr. Schuerman said they don't need the shed anymore since they got rid of their camper. He continued that they want to split it up to just have the one area to take care of and pay taxes on.

Ezell noted that the request was fairly simple and that the neighboring lots were split similarly.

Mrs. Schuerman said that the lots to the north were similarly split, but not to the south where it is wooded.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320021 dated September 10, 2020.

Ezell read the six conditions listed in the development review and asked if the applicant understood that the request cannot be processed as a subdivision and would only be considered as a lot line adjustment. Mr. Schuerman said they just don't need it, and if it makes any difference, the shed is 40 feet by 32 feet. Ezell explained that the recommendation is to consider the request as a lot line adjustment.

Mr. Schuerman asked how they find out where their property lines are. The board recommended they hire a surveyor.

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 #320022 – Aaron and Brenda Fischer**

Aaron and Brenda Fischer of 39 Molly Lane, Esko, MN 55733, have requested a variance to construct an addition and attached garage on a dwelling on a nonconforming lot. The lot is considered nonconforming as it does not meet the required lot width requirements for two dwellings. The property is described as Lot 3 of Swanson Sand Lake Plat in Section 32, Township 46 North, Range 19 West on Sand Lake in Moose Lake Township. The property address is 4690 Sand Lake Road (PIN 63-290-0060).

Aaron and Brenda Fischer were present to speak on their behalf. They thanked the board for their time and continued to describe how they've purchased the property on Sand Lake and would like to remodel the house and add an addition. The house has water damage. They've worked with an architect and with the Zoning Office to find a realistic plan prior to purchasing the property. They were appreciative of Ms. Cunningham's time. They've discussed their plans with their neighbors, and said the neighbors have been supportive of their plans. Mr. Fischer said they would like to improve both dwellings as they are in disrepair.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320022 dated September 9, 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. Fischer said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. Teresa Macdonald gave thumbs up.

Ezell read a written correspondence from Moose Lake-Windemere Sanitary Sewer District signed by Darla Hall, Executive Director, in support of the request as long as it does not encroach on their utility easement.

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

c) **Variance Request #320023 – Lawrence and Mary Peterson**

Lawrence and Mary Peterson of 4199 Stage Coach Trail, Rockford, IL 61101 have requested a variance to construct an addition onto a nonconforming garage and replace an existing outhouse on a nonconforming lot. The garage 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 lot width or lot area requirements. The request also includes considering the lot buildable in the future as long as setback, lot coverage and septic requirements are met. The subject property is described as Lots 4 and 5 of Winters Grove Plat in Section 29, Township 48 North, Range 18 West on Park Lake in Atkinson Township. The property address is 2129 Park Lake Lane (PIN 33-260-0100 and 0120).

Teresa and Jeff Macdonald of 14735 Joseph Parkway, South Beloit, IL 61080, were present to speak on Mr. and Mrs. Peterson's behalf. Mrs. Macdonald described the property in question, the structures, and the request for an addition to the garage and to move the outhouse to make it compliant.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mrs. Macdonald narrated the video.

Ezell read Heather Cunningham's Development Review #320023 dated September 9, 2020.

Ezell read the six conditions listed in the development review and asked if the representative understood and was okay with those six conditions. Mrs. Macdonald 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.

(10) The public hearing closed at 7:55 p.m.

(11) The Board of Adjustment meeting re-opened at 8:01 p.m.

#### **Variance Request #320021– Marvin Donald Schuerman**

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the modified request and deny the original request in accordance with the findings of fact, decision, and six conditions by the Board of Adjustment listed on Carlton County Findings of Fact Worksheet dated September 15, 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  (for lot line adjustment) No  Why or why not?

It is not reasonable to subdivide a nonconforming property into two nonconforming properties. The other lots in the plat (PIN 63-070-0200, 0240, 0260 and 0300) that are 100 feet in lot width, 125 feet in lot depth and 12,500 feet in lot area were split prior to official controls and are not buildable except with an approved variance. It would be more reasonable to allow a lot line adjustment with PIN 63-070-0180. It would result in one more conforming parcel and one less conforming parcel.

b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*

Yes  (for lot line adjustment) No  Why or why not?

The application indicates the practical difficulty is the applicant does not need the lot or the building on it. This is not unique to the subject property and was created by the owner. There does not appear to be a practical difficulty related to a property subdivision. A lot line adjustment could be justified in that PIN 63-070-0200 was split prior to the establishment of official controls. It would result in a more conforming lot.

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 would not alter the essential character of the locality. There are four other lots in this plat of similar size. However, these four lots are not buildable without a variance.

- d. *Does the practical difficulty involve more than economic considerations?*  
Yes  (for lot line adjustment) No  *Why or why not?*

It appears that economic considerations constitute the practical difficulty. The applicant would like to sell the property as it is not used. A lot line adjustment could be justified in that PIN 63-070-0200 was split prior to the establishment of official controls. It would result in a more conforming lot.

- 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  (for lot line adjustment) No  *Why or why not?*

The Carlton County Community-Based Comprehensive Plan supports the establishment of zoning districts with minimum lot size requirements.

#### **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 an Administrative Subdivision Lot Line Adjustment between PIN 63-070-0160 and 63-070-0200.

*Denied:* Subdivide a legal, nonconforming lot into two nonconforming lots.

#### **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 request can only be processed as an Administrative Subdivision Lot Line Adjustment.
3. The applicant must have an approved Administrative Subdivision Lot Line Adjustment within one year. 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.
4. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
5. 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.

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 #320022 – Aaron and Brenda Fischer**

A motion was made by Manninen, seconded by Eskuri, and carried to **Approve** the findings of fact, decision, and seven conditions as listed on Carlton County Findings of Fact Worksheet dated September 15, 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 is a reasonable request to allow the addition and attached garage. The subject property meets the lot area and lot width requirements at the road for two dwellings. The proposed additions will meet all applicable setback requirements.

- 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 dwellings were 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 two dwellings have been in this location since at least 1968. The proposed additions will meet all applicable 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 for this property. It appears the practical difficulty is that the dwellings were constructed prior to any 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 use of the property as a single family residence is a permitted use in the R-1 Zoning District. The applicants indicated verbally that the dwelling closest to the lake will be used as a guest house and not for rental purposes.

- 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 supports density standards on lakeshore

properties. The applicants indicated verbally that the dwelling closest to the lake will be used as a guest house and not for rental purposes.

**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 attached garage on a dwelling on a nonconforming lot. The lot can be considered buildable in the future for two dwellings as long as setback, septic and lot coverage requirements are met.*

*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 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 dwelling closest to the lake shall be used as a guest house and not for the purpose of a rental property.
6. The lot can be considered buildable in the future for two dwellings as long as setback, septic and lot coverage requirements are met.
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 #320023 – Lawrence and Mary Peterson**

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and six conditions as listed on Carlton County Findings of Fact Worksheet dated September 15, 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 applicants are proposing a reasonable use of the property with the addition to the garage. A 24 feet by 34 feet garage is reasonable. The proposed garage will not encroach any further on the setback requirements permitted under the previous variance. As the outhouse failed compliance inspection with an earthen pit, it is reasonable to allow it to be replaced with the addition of a water-tight vessel beneath it. The proposed location of the outhouse is further back from the road right-of-way. This office is not sure how reasonable it is to allow the subject property to be buildable. This office does not feel setback requirements can be met as the lot depth for the lake portion of the property is 150 feet. The setback to the ordinary high water level (OHWL) is 100 feet and the setback to the road right-of-way is 35 feet. This would only leave 15 feet of building space. The portion of the lot east of the road is mostly wetlands. That said, if the applicants can meet setback, lot coverage and septic requirements, this office does not have an issue with allowing the lot to be considered buildable.

- 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 and the location of the wetland.

- 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 1995 and the applicants are not requesting to encroach further on the setback to the road right-of-way. The applicants are asking for a 10 foot addition. Many structures along Park Lake Lane encroach on the setback requirements. None of the lots in this plat meet lot width and lot area 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 an addition and replace a noncompliant outhouse.

- 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 onto a nonconforming garage and replace an existing outhouse on a nonconforming lot. The lot can be considered buildable in the future as long as setback, septic and lot coverage requirements are met.*

*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 lot shall be considered buildable in the future as long as setback, lot coverage and septic requirements can be met.
6. 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. 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 8:03 p.m.

Respectfully submitted,

Chris Berg  
Recording Secretary