

Draft
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
October 20, 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 Eskuri, seconded by Manninen, and carried to approve the September 15, 2020, Board of Adjustment meeting minutes.
- (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 October 1, 2020, and published in the Star Gazette on October 8, 2020. The legal ad was sent to the Pine Knot on October 1, 2020, and published in the Pine Knot on October 9, 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 #320024 – Curt and Denise Blomquist**

Curt and Denise Blomquist of 751 Campground Road, Wright, MN 55798 have requested a variance to construct a deck and second-story addition onto a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback from the ordinary high water level (OHWL). The property is described as Tract A of Registered Land Survey #3 in Section 21, Township 49 North, Range 20 West on Cross Lake in Red Clover Township. The property address is 751 Campground Road (PIN 96-060-0020).

Curt Blomquist was present to speak on his behalf. He said they want to add a deck and a second story addition for another bedroom and bathroom. They currently have two bedrooms and one bathroom.

Ezell asked if the addition would be any closer to the lake. Mr. Blomquist said no.

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

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320024 dated October 14, 2020.

Ezell read the seven conditions listed in the development review and asked if the applicant understood those seven conditions. Mr. Blomquist 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 #320025 – Andrew Ross Pederson**

Andrew Ross Pederson (proposed purchaser), whose current address is 3769 Main Street, Apartment 4, Barnum, MN 55707, represented by Matt Tusken (real estate agent) of 1307 Highway 33, Cloquet, MN 55720, has requested a variance on a property owned by Troy Lekander (current owner), whose mailing address is 20 Mikaela Lane, Esko, MN 55733. The request includes installing a holding tank that does not meet the required setback from the side or rear yard line and allowing a deck on a nonconforming dwelling on a nonconforming lot. The dwelling is considered nonconforming as it does not meet the required setback from the ordinary high water level (OHWL), bluff and side yard lines. The lot is considered nonconforming as it does not meet lot width, lot area or maximum lot coverage requirements. The property address is 4156 Lake Road 1 (PIN 39-120-0400).

Troy Lekander (seller) of 20 Mikaela Lane, Esko, MN 55733 was present to speak on Mr. Pederson's behalf. Mr. Lekander said he has owned the property for a few years and is seldom there so he decided to sell the property. He said he did not build the deck in question it was there when he purchased the property. He said he has a deed for a shared well that was installed in 1966, so there has been water installed in the cabin for over fifty years. He said he has always wanted a holding tank for the property, currently the water goes into a pipe underground. He said whether or not the sale to Mr. Pederson goes through he wants to proceed with trying to get a holding tank installed.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. Lekander narrated the video. Mr. Lekander said he agreed that the location closer to the cabin is a better spot for the holding tank. He said the other location marked by the septic designer would be taking up the only parking spot on the lot. He said he has an easement to access the lot, but not park on.

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320025 dated October 14, 2020.

Mr. Lekander said he wanted it noted on the record that he did not construct the deck or install the plumbing into the cabin, it was done by a previous owner.

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

Skare asked Mr. Pederson if this variance was a contingency of purchase. Mr. Pederson said yes. Mr. Lekander said if the purchase doesn't happen he still wants to pursue getting the tank installed.

Skare asked Mr. Pederson if he was paying for the holding tank. Mr. Pederson said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. Mark and Gayle Deutsch of 4154 Lake Road 1, Barnum, MN 55707 were in support of the request. They are in favor of the conditions that were put forth in Development Review #320025.

Jody Mattinen of 418 Pleasant View Court, Wrenshall, MN 55797 is in support of the request. She said she is one of the realtors involved and the holding tank would be better for the property.

Hurst questioned the location of the shared well. Mrs. Deutsch indicated the shared well is in an enclosure that looks like a chimney and is shared by 5 properties. It is located on the property to the south of Mr. Lekander's. Mr. Deutsch said the second holding tank location closer to the cabin would be further away from the shared well than the first location marked by the septic designer.

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

(10) The public hearing closed at 7:45 p.m.

(11) The Board of Adjustment meeting re-opened at 7:50 p.m.

Variance Request #320024– Curt and Denise Blomquist

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and seven conditions by the Board of Adjustment listed on Carlton County Findings of Fact Worksheet dated October 20, 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 respect to the addition and deck. The applicants are not increasing the footprint of the dwelling with the addition. It appears there once was a deck in this location as there is a sliding glass door and ledger board.

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 construction of the dwelling 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 would not alter the essential character of the locality. As stated above, there once was a deck on the dwelling. The applicants are not increasing the footprint of the dwelling with respect to the addition. The proposed addition adds one bedroom for a total of three. The septic system is sized for three bedrooms.

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 construction of the dwelling 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 A-2 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 with respect to a reduced setback from the OHWL. The plan

encourages preserving and restoring native vegetation along shorelines. The applicants will be required to implement a Shoreland Mitigation 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 a deck and second-story addition onto a nonconforming dwelling.

Denied: Not applicable.

CONDITIONS:

1. The applicants 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 applicants shall complete a septic compliance inspection by June 1, 2021.
6. The applicants shall implement the final Shoreland Mitigation Plan by September 30, 2021. The final plan was approved October 13, 2020.
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 #320025 – Andrew Ross Pederson

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 October 20, 2020, and signed by Board Chair Ezell.

FINDINGS OF FACT (Holding Tank)

1. 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 applicant (proposed purchaser) is proposing to use the property in a reasonable manner not permitted by the ordinance. It appears the holding tank can be accessed

reasonably without trespassing on the neighboring property if it is moved to the suggested location immediately adjacent to the deck.

2. 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 the practical difficulty for the property. The practical difficulty appears to be the development of this lot prior to official controls and then subsequent subdivision.

3. 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 will not effect a substantial change in the character of the neighborhood or result in a substantial detriment to neighboring properties. The installation of a compliant system will benefit the neighborhood and the lake.

4. 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 would not allow a use that is not allowed in the zoning district in which the subject property is located. Residences are a permitted use in the R-1 Zoning District.

5. 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?

Part of the practical difficulty is unique to the subject property (development prior to official controls) and part was created by the current property owner (installation of plumbing) and prior property owners (subdivision of nonconforming lot). That said, this office does not see an issue with a reduced setback of 5 feet to the side yard line and 90 feet to the OHWL. The holding tank can be accessed without trespassing on the neighboring property if it is relocated immediately adjacent to the deck.

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: Install a holding tank that does not meet the required setback from the side yard line, rear yard line or OHWL.

Denied: NA

FINDINGS OF FACT (Allowing a deck on a nonconforming dwelling on a nonconforming lot. The dwelling is considered nonconforming as it does not meet the required setback from the OHWL, bluff and side yard lines. The lot is considered nonconforming as it does

not meet lot width, lot area or maximum lot coverage requirements.)

- 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 (proposed purchaser) appears to be proposing a reasonable use of the property in a reasonable manner. The applicant would like to retain a deck reconstructed by a previous property owner. The deck does not encroach further on the setback to the OHWL or the bluff. The deck does encroach on the setback to the side yard line.

- 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?

Part of the practical difficulty is unique to the subject property (development prior to official controls) and part was created by a prior property owner (subdivision of nonconforming lot). It appears the deck was reconstructed but was part of the original development of the property.

- 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 the deck was reconstructed but was part of the original development of the property.

- 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. Part of the practical difficulty is unique to the subject property (development prior to official controls) and part was created by a prior property owner (subdivision of nonconforming lot). It appears the deck was reconstructed but was part of the original development of the property.

- 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. The applicant has an approved Shoreland Mitigation Plan. The plan encourages preserving and restoring native vegetation along shorelines and discourages development in the shore impact zone.

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 (proposed purchaser) is not sure why a previous owner did not obtain a permit.

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 for the deck.

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

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

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

A previous property owner did not make a substantial improvement to the property with the reconstruction of a deck.

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

A previous owner completed the reconstruction 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/recreational and not commercial.

o. *Are there similar structures in place;*

There are similar structures in place in the locality.

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

The benefits of removing the deck do not outweigh the detriment to the applicant. The deck was reconstructed but appears to have been in this location since before official controls.

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: Allowing a deck on a nonconforming dwelling on a nonconforming lot. The dwelling is considered nonconforming as it does not meet the required setback from the OHWL, bluff and side yard lines. The lot is considered nonconforming as it does not meet lot width, lot area or maximum lot coverage requirements.

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 and septic permit within one year. All work must begin within one year of issuance of the septic 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. The applicant shall institute the mitigation practices by October 20, 2021.
5. Pressurized water cannot be connected to the dwelling until a permitted septic system is installed.
6. The holding tank cannot prohibit parking on the subject property. The holding tank can be installed no closer than 5 feet from the closest side yard line and 90 feet from the OHWL.
7. 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 7:52 p.m.

(14) Chairman Ezell re-opened the public hearing at 7:53 p.m. to read a written correspondence from Jim and Sharon Bocklund of 5223 141st Street North, Hugo, MN 55038, in opposition to **Variance Request #320025 – Andrew Ross Pederson**.

(15) A motion was made by Eskuri, seconded by Manninen, and supported by all yea votes to close the Board of Adjustment meeting at 7:54 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary