

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD **THURSDAY, NOVEMBER 14, 2019**, ST. LOUIS COUNTY PUBLIC WORKS, LOWER-LEVEL TRAINING ROOM, VIRGINIA, MN.**

9:30 AM – 10:20 AM

Board of Adjustment members in attendance: Dave Anderson, Alternate  
Steve Filipovich  
James McKenzie  
Sonya Pineo  
Dave Pollock  
Ray Svatos  
Diana Werschay, Chair

Board of Adjustment members absent: Roger Skraba - 1

**Decision/Minutes for the following public hearing matters are attached:**

**NEW BUSINESS:**

- A. Richard Hasbrook – S34, T63N, R16W (Greenwood)
- B. Dave Long – S4, T68N, R19W (Unorganized)

**OTHER BUSINESS:**

**Motion by McKenzie/Filipovich** to approve the minutes of the October 10, 2019 meeting.

**In Favor:** Filipovich, McKenzie, Pineo, Svatos, Werschay – 5

**Opposed:** None – 0

**Abstained:** Anderson, Pollock - 2

**Motion carried 5-0-2**

**NEW BUSINESS:**

**Case 6204 – Richard Hasbrook**

The first hearing item was for Richard Hasbrook, property located in S34, T63N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.6, to allow an addition to an occupied structure that will not meet minimum setback requirements of the St. Louis County sewage treatment standards and St. Louis County Ordinance 61, Article I, Section 4, to allow an occupied structure at a reduced setback per MN Rule 7080.2150 requirements.

The applicant has requested his hearing be postponed until the December 12, 2019 hearing due to the fact that they live on water-access island property and the lake has not frozen over in order for him to travel to the hearing.

**Motion by Pineo/Anderson** to table the hearing until the applicant can be present on December 12, 2019.

**In Favor:** Anderson, Filipovich, McKenzie, Pineo, Svatos, Werschay - 6

**Opposed:** None - 0

**Motion carried 6-0**

**Case 6205 – Dave Long**

The second hearing item was for Dave and Brenda Long, property located in S4, T68N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D, to allow an addition to a nonconforming principal structure that is located within the shore impact zone and also encroaches upon both a local road setback and property line setback where no additions are allowed.

*Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is for an addition to a nonconforming dwelling where no additions are allowed.
- B. No additions are allowed because the structure is located within the shore impact zone of Ash River and also encroaches upon both a local road and property line setback.
- C. The structure is approximately 25 feet from the shoreline of Ash River where 100 feet is required. The shore impact zone of Ash River is 75 feet.
- D. The structure is located approximately 32 feet from the centerline of a local road where 48 feet is required.
- E. The structure is located very near the property line where 15 feet is required.
- F. The applicants had submitted a survey showing that the structure is located on their property.
- G. The proposed addition size is 18 feet by 24 feet (432 square feet).
- H. The applicant is proposing to maintain the current road and shoreline setbacks and will not increase the nonconformity. The applicants have worked with staff to alter their proposal.
- I. There is only a distance of 85 feet between the road and the river on the subject property.

*Jared Ecklund* reviewed staff facts and findings as follows:

- A. Official Controls:
  - 1. Zoning Ordinance 62 states that a nonconforming principal structure at a reduced shoreline setback may be expanded once with a performance standard permit if the existing principal structure does not encroach upon a property line or local road setback, if within the shore impact zone. The applicant is requesting an addition to a principal structure that is located within the shore impact zone of the Ash River and also encroaches upon both the public road and the west property line.
    - a. The shore impact zone on the Ash River is 75 feet; the structure is located approximately 25 feet from the shoreline.
    - b. The local road centerline setback is 48 feet; the structure is located approximately 32 feet from the centerline of the road.
    - c. The property line setback is 15 feet; the structure is located very near the property line.

2. The property falls within the Forest and Agriculture future land use category in the Comprehensive Land Use Plan.
3. Objective LU-3.1 of the Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.
5. The Shoreland Multiple Use (SMU)-11 zone district is one of the least restrictive zone districts in Zoning Ordinance 62.

B. Practical Difficulty:

1. The property is located on a parcel that is between the Ash River and the Ash River Trail which is a local public road.
  - a. There is approximately 85 feet between the road centerline and the shoreline.
  - b. There is not a location on the property that would meet both the shoreline and the road setbacks.
2. The existing structure is already located at reduced road setbacks and at a reduced shoreline setback.
  - a. The applicant is proposing to maintain the existing setbacks from the road and shoreline.
3. The structure is located within the shore impact zone.
  - a. The shore impact zone for the Ash River is 75 feet.
  - b. The structure is located approximately 25 feet from the shoreline.
  - c. Nearly the entire property is located within the shore impact zone.
4. Since there is not any area on the property that is outside of the shore impact zone and the road setbacks, there are not any alternatives that would not require a variance.
5. Given the proximity of the structure to the shoreline, an addition size of 200 square feet would be more in line with other ordinance standards and may be considered more reasonable.

C. Essential Character of the Locality:

1. There is a significant amount of development in this area along the Ash River.
2. There are a few properties in this area with development located between the road and river at reduced setbacks.
3. One variance was denied in this area for a new deck, enclosing an existing deck and for a new structure located at a reduced shoreline setback in 2000.
  - a. That case was denied due to lack of hardship and because the construction would have been within the shore impact zone.
4. A second case was denied in the area for a garage at a reduced shoreline, road centerline, and road right-of-way setback.
  - a. Details of the justification for the denial was not indicated in the recorded decision.

D. Other Factor:

1. This property had a septic system but is now served by a sanitary district.

*Jared Ecklund* noted no items of correspondence.

**STAFF RECOMMENDATION**

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow an addition to a nonconforming principal structure that is located within the shore impact zone and also encroaches upon a local road setback and property line setback where no additions are allowed, the following conditions shall apply:

1. The structure shall be unobtrusive earth-tone colors, including siding, trim and roof.
2. A plan to address stormwater runoff shall be submitted and approved by the Planning Department prior to the issuance of a land use permit.
3. The proposed addition shall maintain the current setbacks from the shoreline and the road right-of-way and centerline.
4. The proposed addition shall be in compliance with St. Louis County Floodplain Management Ordinance 43.

*Brenda Long*, the applicant, stated that they purchased this property in May 2019 after being reassured by the seller and realtor that they would be able to add onto the cabin. The cabin is currently used as a summer fishing cabin. They would like the opportunity to spend more time at the cabin and wish to expand to allow for that use. They want to add a bedroom and a bathroom in order to share the cabin with their children. They wanted to ask for the maximum square footage they could build but they may build a smaller size. They are not planning on increasing the height and they wish to keep everything on a single level. It would get costly because they would need to replace the roof.

*Dave Long*, the applicant, stated that the cabin is about 900 square feet in size. He is not sure what risk there is to the riverfront. He does not know if what they are requesting will exceed the amount of work seen at other riverfront homes. They will likely increase the amount of time spent at the cabin as time goes on. There is an old septic tank on the property but the property is served by a municipal system. Their property is located between the Ash-Ka-Nem and Frontier resorts along the river.

No other audience members spoke.

The Board of Adjustment discussed the following:

- A. Inquired what the allowed maximum height is within the shore impact zone. *Jared Ecklund* stated 20 feet.
- B. Board member *Pollock* asked if the applicants could work within the 200 square foot addition suggested by staff. *Brenda Long* stated that if they could not be granted a variance for the 18 foot by 24 foot addition, that they be granted a variance for a 200 square foot addition.

## **DECISION**

**Motion by McKenzie/Anderson** to approve a variance request to allow an 18 foot by 24 foot addition to a nonconforming principal structure located 25 feet from the shoreline and within the shore impact zone, located 32 feet from the road centerline, and abutting the west property line, based on the following facts and findings:

**A. Official Controls:**

1. The variance request is in harmony with the general purpose and intent of official controls.
2. The addition would allow the applicants to have reasonable use of their property.

**B. Practical Difficulty:**

1. It would be impractical to build a second story with the cabin being old. The foundation might not be able to support a second story addition.
2. The existing structure is located between the river and the road.

**C. Essential Character of the Locality:**

1. The variance will not alter the essential character of the locality.

**D. Other Factor:**

1. A silt fence could be a suggestion to minimize impacts if there is excavation between the existing structure and the river.

The following conditions shall apply:

1. The structure shall be unobtrusive earth-tone colors, including siding, trim and roof.
2. A plan to address stormwater runoff shall be submitted and approved by the Planning Department prior to the issuance of a land use permit.
3. The proposed addition shall maintain the current setbacks from the shoreline and the road right-of-way and centerline.
4. The proposed addition shall be in compliance with St. Louis County Floodplain Management Ordinance 43.

**In Favor:** Anderson, Filipovich, McKenzie, Pollock, Svatos, Werschay - 6

**Opposed:** Pineo - 1

**Motion carried 6-1**

**Motion to adjourn by Pineo. The meeting was adjourned at 10:20 a.m.**