

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY THURSDAY, DECEMBER 10, 2020.

10:00 AM – 12:15 PM

Board of Adjustment members in attendance: Steve Filipovich
James McKenzie
Sonya Pineo
Dave Pollock
Roger Skraba, Vice Chair
Ray Svatos
Diana Werschay (until 11:30 AM)

Board of Adjustment members absent: None - 0

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

NEW BUSINESS:

- A. Andrew Heisel, S22, T64N, R18W (Beatty)
- B. David and Brenda Anderson, S26, T56N, R16W (Unorganized)
- C. Hugh Reitan, S22, T53N, R13W (North Star)
- D. Susan and Ryan Severson, S18, T62N, R16W (Greenwood)

OTHER BUSINESS:

Motion by Svatos/McKenzie to approve the minutes of the November 12, 2020 meeting.

In Favor: Filipovich, McKenzie, Pineo, Pollock, Skraba, Svatos, Werschay – 7

Opposed: None – 0

Motion carried 7-0

Jenny Bourbonais, Acting Secretary, stated there will be no January 2021 public hearing.

NEW BUSINESS:

Case 6238 – Andrew Heisel

The first hearing item was for Andrew Heisel, property located in S22, T64N, R18W (Beatty). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a principal dwelling at a reduced shoreline setback, and Article IV, Section 4.3 D, to allow a structure height to exceed the maximum allowed height when located between the shore impact zone and the required setback.

The Heisel variance was withdrawn after the deadline for legal notices. The landowner/applicant has decided to pursue an alternative that does not require a variance.

The hearing was opened and closed. No further action was taken.

Case 6239 – David and Brenda Anderson

The second hearing item was for David and Brenda Anderson, property located in S26, T56N, R16W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.4 D., to allow a lot that does not conform to the zoning district minimal dimensional standards and is less than one-half acre in size to be permitted as buildable. *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting that two lots be considered buildable in order to construct an accessory structure on the property.
- B. The parcels are two original platted lots (Lot 16 and 17) with an approximate total acreage of 0.25 acre.
- C. A wetland delineation was done on the property. There is 0.13 acre of wetland on the parcels.
- D. The accessory structure would meet all setbacks.

George Knutson reviewed staff facts and findings as follows:

- A. Official Controls:
 - 1. Zoning Ordinance 62, Article IV, Section 4.4 D., states that a single lot of record may be permitted as a buildable lot if all of the following criteria can be met:
 - a. The lot is a minimum of one-half acre in size with no public sewer or water.
 - b. The lot shall meet definition of a lot of record.
 - c. The lot when created, complied with official controls in effect at the time.
 - 2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
 - 3. Objective LU-3.1 of the St. Louis County 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.
- B. Practical Difficulty:
 - 1. These lots were platted in 1949 when platting allowed smaller sizes that do not meet current ordinance standards.
 - 2. The only alternative would be to purchase adjacent property to increase the total acreage to 0.5 acres or more.
- C. Essential Character of the Locality:
 - 1. The applicant is not proposing a new use to the area.
 - 2. There have been no similar variances in the area.
- D. Other Factors:
 - 1. The applicant owns riparian lots on Long Lake, including two directly south of the subject parcels, but are split by the platted road.

2. The parcels contain approximately 0.13 acre of wetland per a wetland delineation that was done on the parcels. If the lot is deemed buildable, any proposal will need to meet Minnesota Wetland Conservation Act standards.

George Knutson 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 a lot that does not conform to the zoning district minimal dimensional standards and is less than one-half acre in size to be permitted as buildable, the following conditions shall apply:

1. The parcel shall be used only for an accessory structure or septic unless additional acreage is obtained to conform to zoning minimums.
2. The total wetland impacts on the property shall not exceed the de minimis exemption allowed per MN Rule Chapter 8420.0420 Subp. 8.

Brenda Anderson, the applicant, stated they have worked to get a garage for many years. They want to use this little piece of property. They did attempt to purchase additional property, but that was unattainable.

David Anderson, the applicant, stated they want to eventually develop the two lakeshore lots. They want to develop the back two lots so they could have a place to stage for the development of the lakeshore lots. Their original plan years ago was to develop the lakeshore lots and then use the back lots for a garage and septic system. The lots are too small for both. They have also fixed the drainage issues on the property. They could have another wetland delineation done to determine the amount of wetlands. If they could build their proposed garage on the property, they would be within the 400 square feet of impact allowed.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Filipovich* inquired about staff's second recommended condition that the total wetland impacts on the property shall not exceed the de minimis exemption allowed per MN Rule Chapter 8420.0420 Subp. 8. *George Knutson* stated that this condition pertains to the Wetland Conservation Act. If this lot is deemed buildable, the accessory structure shall not exceed wetland impacts allowed. The applicants could be allowed 400 square feet of impact.
- B. Board member *McKenzie* asked if the 400 square foot exemption is above and beyond the proposed structure. *George Knutson* stated that the exemption would be for the overall property and that would include any fill needed for the structure itself.
- C. Board member *McKenzie* asked if there is a setback for delineated wetlands. *George Knutson* stated there is no setback from a delineated boundary.
- D. Board member *Filipovich* asked what type of structure the applicants are building. *David Anderson* stated it is a garage and will be used for storage. It will be across from the lakeshore property. Board member *Filipovich* asked if they were considering a garage with living quarters. *David Anderson* stated they are not.

- E. Board member *McKenzie* stated he drove past this site as he lives in the area. This is a small, typical northern Minnesota lake where the lakeshore lots are old and narrow. There is a lot of use and a lot of structures in the area.

DECISION

Motion by McKenzie/Svatos to approve a variance to allow a lot that does not conform to the zoning district minimal dimensional standards and is less than one-half acre in size to be permitted as buildable, based on the following facts and findings:

A. Official Controls:

1. Zoning Ordinance 62, Article IV, Section 4.4 D., states that a single lot of record may be permitted as a buildable lot if all of the following criteria can be met:
 - a. The lot is a minimum of one-half acre in size with no public sewer or water.
 - b. The lot shall meet definition of a lot of record.
 - c. The lot when created, complied with official controls in effect at the time.
2. The general purpose and intent of official controls is to preserve and protect lands and waters in St. Louis County by establishing regulations.
3. Wetlands have been identified and will be protected.
4. The landowner will have reasonable use of their property.

B. Practical Difficulty:

1. These lots were platted in 1949 when platting allowed smaller sizes that do not meet current ordinance standards.
2. The only alternative would be to purchase adjacent property to increase the total acreage to 0.5 acres or more. The applicant did attempt to purchase additional property.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area.
2. There have been no similar variances in the area.
3. Long Lake is more of a seasonal lake with campers and cabins than year-round homes.

D. Other Factors:

1. The applicant owns riparian lots on Long Lake, including two directly south of the subject parcels, but are split by the platted road.
2. The parcels contain approximately 0.13 acre of wetland per a wetland delineation that was done on the parcels. If the lot is deemed buildable, any proposal will need to meet Minnesota Wetland Conservation Act standards.
3. The applicants will be able to keep their materials out of the elements with the use of a garage.

The following conditions shall apply:

1. The parcel shall be used only for an accessory structure or septic unless additional acreage is obtained to conform to zoning minimums.
2. The total wetland impacts on the property shall not exceed the de minimis exemption allowed per MN Rule Chapter 8420.0420 Subp. 8.

3. Demolition debris shall be disposed of in accordance to St. Louis County Solid Waste Ordinance 45.

In Favor: Filipovich, McKenzie, Pineo, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Case 6234 – Hugh Reitan (rehearing)

The third hearing item was for Hugh Reitan, property located in S22, T53N, R13W (North Star). The applicant is requesting a rehearing for relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, to allow the addition of a permanent foundation to a nonconforming principal dwelling that does not meet the minimum shoreline setback requirement, to allow multiple additions to a nonconforming principal dwelling where one is allowed without variance, and to allow a principal structure height to exceed 25 feet when between the shore impact zone and the required setback.

George Knutson, St. Louis County Planner, reviewed the staff report as follows:

- A. This hearing was originally heard on November 12, 2020. The variance was denied without prejudice in order for staff to work with the applicant and landowners on updated setback information.
- B. The applicant is proposing to move the existing principal structure back 15 feet to an approximate setback of 75 feet from Barrs Lake.
- C. The applicant is proposing three enclosed additions, two covered porches and the installation of a walkout basement.
- D. The proposed walkout basement would increase the structure height to 32 feet.
- E. The three proposed, enclosed additions would total approximately 346 square feet.
- F. The two proposed covered porches would total approximately 84 square feet.
- G. The structure and its additions will be located 30 feet from the septic tank.

George Knutson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Barrs Lake is classified as a Recreation Development Lake.
 - a. Zoning Ordinance 62 Article III, Section 3.4, requires a minimum 100 foot shoreline setback for Recreation Development Lakes and the Shore Impact Zone is 50 feet.
 - b. The current structure is located 60 feet from the lake.
 - c. The applicant is proposing to move the structure back 15 feet to an approximate setback of 75 feet from Barrs Lake.
 2. The ordinance requires that if a nonconforming structure is moved any distance or if structural changes are made, the structure shall be moved to conform to setback requirements.
 3. An existing nonconforming principal dwelling may be expanded once with a performance standard permit, without variance, if no additions have been added to the principal dwelling since the implementation date of the appropriate setback standard.

- a. Under prior ownership, a small addition to the rear of the structure was constructed without the benefit of permit. That addition is the one expansion that would have been allowed without variance.
 - b. The applicant is now proposing three enclosed additions and two open porch additions.
4. Zoning Ordinance 62 states that a completed principal structure shall not exceed a total of 25 feet in height if all or any part of the structure is between the shore impact zone and the required setback; the proposed principal structure will have a height of 32 feet.
5. The property falls within the Lakeshore Development Areas of the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development and redevelopment adjacent to lakes. This includes single family residential uses in size, scale and intensity consistent with the county's developed lakeshore area.
6. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving the management of nonconformities.
7. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
8. Objective LU-3.3 is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statue 394.22 Subd. 10.

B. Practical Difficulty:

1. There are no unique physical circumstances of the property.
2. The property has suitable buildable area that conforms to ordinance standards.
3. A variance is not the only option as the following alternatives exist:
 - a. Relocate the existing structure to a conforming location on the property and construct conforming additions to the structure with a land use permit.
 - b. Replace the existing structure with a new structure that conforms to ordinance standards with a land use permit.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the locale as there are other residential properties in the area.
2. There have been three similar variances approved in the area;
 - a. In 2005, the E 1/2 of Lot 10 and all of Lot 11 of Barrs Lake Plat was granted a variance for a 1,416 square foot addition to the side of an existing nonconforming structure, a permanent foundation 45 feet from the shoreline where 50 feet was required, and a 160 square foot addition to the front of a nonconforming structure located where no addition is allowed. Staff recommended denial based on alternatives existing.
 - b. In 2005, Lots 14 and 15 of Barrs Lake Plat was granted a variance for a second addition to a nonconforming structure by removing a 14 foot by 12 foot porch and replacing it with a 16 foot by 18 foot addition, and adding an 8 foot by 10 foot addition. The variance was approved based on staff recommendation.

- c. In 2018, Lots 4 and 5 of Sheltons Beach Plat was granted a variance to allow the expansion of a nonconforming principal structure that has been previously expanded and to allow a nonconforming principal structure height of 32 feet between the shore impact zone and the required shoreline setback. The nonconforming principal structure was located 95.5 feet from the shoreline where 100 feet was required.

D. Other Factors:

1. The applicant has provided a proposed setback of 30 feet from the existing septic tank to the new, proposed location of the principal dwelling with the proposed additions.
2. The alternative, conforming location would alleviate the need for the current variance request and the need for any potential variance requests for future expansions.
3. There was a small addition to the rear of the structure constructed without the benefit of permit; this addition is the one addition that would have been allowed without variance. There are also two carports (accessory structures) that were placed on the property that did not receive permits.
4. Regardless, if a variance is approved for further additions, permits will be required for the previous addition and carports.
5. Objective LU-3.2 of the St. Louis County Comprehensive Land Use Plan is to have county staff and decision-makers work together to decrease the amount of zoning ordinance nonconformities throughout the county.
 - a. Increasing a nonconformity in intensity of use where alternatives exist, without sufficient practical difficulty, is not in keeping with the intent of the St. Louis County Zoning Ordinance or St. Louis County Comprehensive Land Use Plan.
6. The applicant has not met the burden of demonstrating practical difficulty as there is sufficient area for a conforming structure.

George Knutson noted one item of correspondence from Don and Julie McCormick in support of the variance. This item was provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow the addition of a permanent foundation to a nonconforming principal dwelling that does not meet the minimum shoreline setback requirement; to allow multiple additions to a nonconforming principal dwelling where one is allowed without variance; and to allow the height to exceed the 25 foot maximum for a principal structure located between the shore impact zone and the shoreline setback, the following conditions shall apply:

1. The stormwater runoff from the existing structure shall not directly discharge into the lake or onto adjacent parcels.
2. An erosion control plan shall be submitted, approved by the Planning and Community Development Director, and implemented prior to the issuance of a land use permit.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.

5. In the event that it is determined that the structure is not structurally sound to be added onto or moved, a new structure may be allowed on the parcel with a land use permit, provided all setback and ordinance requirements are met.
6. Land use permits shall be obtained for the previous addition and other structures that did not receive permits prior to a land use permit for any further additions.
7. All SSTS sewage treatment standards shall be met.

Hugh Reitan, the applicant, stated they do not want to move the structure any closer to the septic tank. They would need to remove a number of trees. The landowners also want to retain the double driveway, which is a turn-around driveway. The further back the structure is moved, the harder it would be to keep the driveways and their trees. Moving the structure back would put it on more level land. At the November hearing, there may have been some room for compromise short of moving the structure back to 100 feet. While there is no official septic report, the system is acceptable and in good shape. Moving it back to a 75 foot setback would keep it in line with the neighboring properties.

Ann Chouninard, the landowner, stated they are proposing to move the cabin back 15 feet. They did look into how many trees would be removed for that and it is minimal. If they were to move the structure back any further, they would have to remove 44 maple trees. They would also lose the use of their circular driveway. There is low land on the west side of the property and then on the ridge there are a number of trees that would have to be removed. The septic system and drainfield passed inspection. The septic system was replaced in August 2000. Once the additions are built, the other accessory structures located on the property will be gone. They just want this project to have little impact on the land.

Chris Chouninard, the landowner, stated they are trying to be the least impactful on the land. The driveway has been a part of this property since the 1960s. They have beautiful trees on the property. They do not want to get rid of them and they do not want to tear up the land. They could put the basement underneath. They hope the second proposal is a good medium from the previous request.

No other audience members spoke.

The Board of Adjustment discussed the following:

- A. Board member *Pollock* asked what prevents the structure from meeting the 100 foot lake setback. *George Knutson* stated that they brought up alternatives to the applicant.
- B. Board member *Pollock* asked if there is something preventing the structure from moving further back if there is a 10 foot septic setback. The proposal shows the structure will be 30 feet from the septic. It could be moved back an additional 20 feet to meet that minimum 10 foot setback. Would the dwelling still be nonconforming if it could only meet a 95 foot lake setback? *George Knutson* stated there are other areas on both lots where the structure could meet a conforming 100 foot lake setback. Moving the structure straight back 20 feet would place it at a 95 foot setback.
- C. Board member *Pollock* asked what structure height is allowed if a structure met a conforming setback. *George Knutson* stated the maximum height allowed for a structure meeting the lake setback is 35 feet.

- D. Board member *Filipovich* asked if there is any information on the septic system. *George Knutson* stated the septic system was recently inspected and there is no report at this point.
- E. Board member *McKenzie* stated that the survey comment on the site sketch stated the front of the structure was 71 feet from the shoreline while the staff report stated it was 60 feet. *George Knutson* stated staff measured the front of the structure to the closest point of the Ordinary High Water Level (OHWL) and that measured 60 feet.
- F. Board member *McKenzie* asked where the additional roof height comes in. *Hugh Reitan* stated that they proposed the maximum roof height they would need based on what the landowners want as far as ceiling height. This maximum height could be lower than estimated. If the structure is moved further back, there might not be a true walk-out basement. The walk-out basement becomes a little harder to place if the land is more level. It will have less of a visual impact getting it back onto flat land. Board member *McKenzie* added this might change the calculation of structure height.
- G. Board member *McKenzie* stated that the second driveway is in relatively poor shape. *Hugh Reitan* stated the landowners recently built this driveway and want to keep both of them.
- H. Board member *McKenzie* asked what kind of tree removal will be done now between the proposed 15 feet or if the structure was further back 10 feet from the septic. *Hugh Reitan* stated the further back the cabin is moved, the more trees would need to be removed.
- I. Board member *McKenzie* asked how far the propane tank will be from the proposed structure? *Hugh Reitan* stated that the propane tank will need to be relocated.
- J. Board member *McKenzie* asked if the applicant or landowners would be amenable to move the structure back an additional 20 feet to the 10 foot septic setback. *Hugh Reitan* stated that would be up to the landowners. Board member *Pollock* added that the 95 foot setback would be a good compromise.
- K. Board member *Skraba* asked if existing parking would be relocated if the cabin is moved back 15 feet. The current parking area is in the same location as the proposed building location. *Ann Chouninard* stated yes.
- L. Board member *McKenzie* asked how many trees would be removed if the structure was moved back to the 95 foot setback. *Ann Chouninard* stated 44 maple trees would need to be removed in order to move the structure back and to also keep their driveway. They would also need to relocate the septic. Board member *Skraba* added that the driveway is currently between the house and the septic. If the house moves back, the driveway will be moved back with it. *Ann Chouninard* stated they would have to remove even more trees with that.

DECISION

Motion by McKenzie/Svatos to approve a variance to allow the addition of a permanent foundation to a nonconforming principal dwelling that does not meet the minimum shoreline setback requirement; to allow multiple additions to a nonconforming principal dwelling where one is allowed without variance; and to allow the height to exceed the 25 foot maximum for a principal structure located between the shore impact zone and the shoreline setback, based on the following facts and findings:

A. Official Controls:

1. Barrs Lake is classified as a Recreation Development Lake.

- a. Zoning Ordinance 62 Article III, Section 3.4, requires a minimum 100 foot shoreline setback for Recreation Development Lakes and the Shore Impact Zone is 50 feet.
 - b. The current structure is located 60 feet from Barrs Lake.
 - c. The applicant is proposing to move the structure back 15 feet to an approximate setback of 75 feet from Barrs Lake.
2. One of the goals of the ordinance supports land use in the county in accordance with the St. Louis County Comprehensive Land Use Plan which seeks to manage and minimize nonconformities. A second review of this variance shows the applicant's effort to maximize the shoreline setback nonconformity.

B. Practical Difficulty:

1. The location of the septic tank, the circular driveway and trees dictate the building's location at a shoreline setback of 75 feet.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the locale as there are other residential properties in the area.
2. There have been three similar variances approved in the area;
 - a. In 2005, the E 1/2 of Lot 10 and all of Lot 11 of Barrs Lake Plat was granted a variance for a 1,416 square foot addition to the side of an existing nonconforming structure, a permanent foundation 45 feet from the shoreline where 50 feet was required, and a 160 square foot addition to the front of a nonconforming structure located where no addition is allowed. Staff recommended denial based on alternatives existing.
 - b. In 2005, Lots 14 and 15 of Barrs Lake Plat was granted a variance for a second addition to a nonconforming structure by removing a 14 foot by 12 foot porch and replacing it with a 16 foot by 18 foot addition, and adding an 8 foot by 10 foot addition. The variance was approved based on staff recommendation.
 - c. In 2018, Lots 4 and 5 of Sheltons Beach Plat was granted a variance to allow the expansion of a nonconforming principal structure that has been previously expanded and to allow a nonconforming principal structure height of 32 feet between the shore impact zone and the required shoreline setback. The nonconforming principal structure was located 95.5 feet from the shoreline where 100 feet was required.
3. There are a number of residences/cabins on the same side of the lake as the applicant's property.

D. Other Factors:

1. This is the second review of the applicant's plan.
2. There have been three similar variances granted in the area.
3. Neighbors have been in support of the variance request.

The following conditions shall apply:

1. The stormwater runoff from the existing structure shall not directly discharge into the lake or onto adjacent parcels.

2. An erosion control plan shall be submitted, approved by the Planning and Community Development Director, and implemented prior to the issuance of a land use permit.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
5. In the event that it is determined that the structure is not structurally sound to be added onto or moved, a new structure may be allowed on the parcel with a land use permit, provided all setback and ordinance requirements are met.
6. Land use permits shall be obtained for the previous addition and other structures that did not receive permits prior to a land use permit for any further additions.
7. All SSTS sewage treatment standards shall be met.
8. Any demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

In Favor: Filipovich, McKenzie, Skraba, Svatos, Werschay - 5

Opposed: Pineo, Pollock - 2

Motion carried 5-2

Case 6240 – Susan and Ryan Severson

The fourth hearing item was for Susan and Ryan Severson, property located in S18, T62N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal structure to be constructed at a reduced property line setback. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to remove an existing 666 square foot dwelling and replace with a 1,232 square foot dwelling. The proposed dwelling would be 44 foot by 28 foot.
- B. The proposed dwelling will have a 10 foot property line setback where a 15 foot setback is required.
- C. The existing dwelling is located 5 feet from the property line.
- D. The property line setback is 20 feet to the west and 10 feet to the east.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Zoning Ordinance 62 requires a 15 foot property line setback for principal dwellings within a Residential (RES)-9 zone district. The applicant is requesting a 10 foot property line setback.
 2. The parcel is located in the Lakeshore Development Area on the Future Land Use Map in the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development and redevelopment adjacent to lakes. This includes single family residential uses in size, scale and intensity consistent with the county's developed lake shore area.
- B. Practical Difficulty:
 1. A structure 28 feet in width would conform to the required 15 foot property line setback if centered on the property.

2. The existing power pole location may limit the proposed structures ability to conform to the 15 foot property line setback.

C. Essential Character of the Locality:

1. The plat of Daisy Beach was completed in 1926 and all the lots as platted are nonconforming to zoning requirements. A majority of the lots are platted with a width of 50 feet at the shoreline and have limited width at the building site.

D. Other Factor:

1. Lake Country Power has stated via email that the existing power pole may be difficult and costly to relocate.

Stephen Erickson noted one item of correspondence from Lake Country Power which was provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a principal structure to be constructed at a reduced property line setback, the following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.

Susan Severson, the applicant, stated that they would like to move away from the Galonski property line from 5 feet to 10 feet. They have a power pole that limits how far over they can shift the dwelling. Their dwelling is also in line with the Reed dwelling. Lake Country Power has been out to the property three times and it would be very difficult to move the pole.

Two members of the audience spoke.

Chris (and Carolyn) Reed, 3740 West High Ridge Road, Lincoln NE, stated they own the neighboring property to the west. They want to confirm the side the short setback is located on. They appreciate the consideration the Seversons had for them.

Jet Galonski, 3131 Old Highway 77, Tower MN, stated his concern is the property line setback is 15 feet. The applicants have talked about this project but there was never anything said about the property line setback being 15 feet. He appreciates the applicants are taking into account the tree line. He is otherwise concerned about losing the trees along the property line.

No other audience members spoke.

The Board of Adjustment discussed the following:

- A. Board member *McKenzie* asked if the power pole would need to be moved in any case. The setback for a power pole appears to be 10 feet from any residence. He asked where the discussions with Lake Country Power had gone and if they had discussed underground power. *Susan Severson* stated they asked Lake Country Power about underground power,

but it would be difficult because of all the rock in the area. If they shifted the structure right or left, their neighbors would lose a lot of trees along the property line. Lake Country Power is considering if this new dwelling location will work. They want to keep the current tree line between both of their neighboring properties.

- B. Board member *McKenzie* asked if the power pole stays where it is, has a different location been considered for the building? *Susan Severson* stated that if the pole moved five feet closer to the road, the building could be accommodated and they would not have to lose trees. They have not had an official declaration from Lake Country Power, but moving the power pole five feet is their current, best plan.
- C. Board member *McKenzie* asked if there is a garage planned for the property. *Susan Severson* stated they will lose a number of accessory structures in order to place a septic system in. They hope to get a garage sometime in the future.
- D. Board member *Pineo* stated the neighbor, Mr. Galonski, has a right to his privacy and property.
- E. Board member *McKenzie* commended the applicants on their consideration for their neighbors and their research into the project. However, the variance is not warranted.
- F. Board member *Skraba* stated this is up to Lake Country Power. If the power company is saying they do not want to move the pole or if they have to move it in a way to cut more trees down and do what the Seversons are trying to avoid.
- G. Board member *Skraba* stated is concern is if the power pole gets moved around, it could change the angle of the pole to any of the homes that feed from the pole. While the power pole could be moved, all of the wiring feeding into any homes that draw from the pole would need to move, too.
- H. Board member *McKenzie* asked if the power pole will be within the perimeter of the proposed dwelling. *Stephen Erickson* stated it would not. Board member *McKenzie* added that there is no real set location for where the power pole may end up located. There is a required 10 foot setback between a power pole and a structure. Board member *Skraba* stated that the proposed dwelling would be moved in order to meet the 10 foot setback.
- I. *Jenny Bourbonais*, Acting Secretary, stated that regardless of the variance, the setback between the power pole and the structure need to be worked out between the applicant and Lake Country Power. The applicant may need to make modifications to their plan.
- J. Board member *Pineo* stated there is a property line setback which would give any neighboring property owner a right to their privacy. *Susan Severson* stated their current proposal with Lake Country Power would move the power pole back five feet closer to the road. The power pole may also be raised. If the power pole moved in any other direction, they would lose trees along the property lines. Board member *McKenzie* asked if the house plans need to be modified if the power pole is moved back. *Susan Severson* stated that they will maintain the setback and it is unknown if any house plans would need to be modified. It would be difficult to move the power pole back any further because trees would need to be removed.
- K. Board member *McKenzie* stated it appears the power pole is no longer a factor in the variance request; the power pole will be behind the house.
- L. Board member *Pollock* questioned while proposed dwelling still needs to meet a 10 foot setback to the power pole, would it need to meet the setback from where the structure currently is or from where the power pole could be relocated to? *Susan Severson* replied the power pole needs to move back five feet regardless. It is currently five feet from the

existing structure. It would need to be moved five feet closer to the road in order to meet the 10 foot setback. Board member *Pollock* asked if there is an agreement by Lake Country Power that they will do this. *Susan Severson* stated Lake Country Power will pay for moving the power pole and increasing its height and that they will have to pay for reconnecting their neighbors to the power pole. Increasing the height of the power pole would prevent removing trees. A Lake Country Power designer was the one that suggested this move.

- M. Board member *Filipovich* stated that the design of the proposed dwelling could also change. There are issues to building that close to the property line and limiting the neighbors' view. *Susan Severson* stated there are other issues besides the power pole; their holding tank prevents them from moving the structure around.

FIRST MOTION

Motion by Svatos/Skraba to approve a variance to allow a principal structure to be constructed at a reduced property line setback, based on the following facts and findings:

A. Official Controls:

1. Zoning Ordinance 62 requires a 15 foot property line setback for principal dwellings within a Residential (RES)-9 zone district. The applicant is requesting a 10 foot property line setback.
2. The parcel is located in the Lakeshore Development Area on the Future Land Use Map in the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development and redevelopment adjacent to lakes. This includes single family residential uses in size, scale and intensity consistent with the county's developed lake shore area.
3. The applicants have worked with the neighbors in order to make this a better situation.

B. Practical Difficulty:

1. The existing power pole location may limit the proposed structures ability to conform to the 15 foot property line setback.
2. The location of the septic system prevents the structure from being moved further.

C. Essential Character of the Locality:

1. The plat of Daisy Beach was completed in 1926 and all the lots as platted are nonconforming to zoning requirements. A majority of the lots are platted with a width of 50 feet at the shoreline and have limited width at the building site.

D. Other Factor:

1. Lake Country Power has stated via email that the existing power pole may be difficult and costly to relocate.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.

In Favor: Pollock, Skraba, Svatos - 3

Opposed: Filipovich, McKenzie, Pineo - 3

Motion fails 3-3

DECISION

Motion by McKenzie/Pollock to deny a variance request without prejudice for further information from Lake Country Power to definitively state where the power pole will be located and what its setback will be, in order to determine whether a variance for a property line setback is necessary.

In Favor: Filipovich, McKenzie, Pineo, Pollock, Skraba, Svatos - 6

Opposed: None - 0

Motion carried 6-0

Motion to adjourn by McKenzie. The meeting was adjourned at 12:15 p.m.