

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD **THURSDAY, OCTOBER 10, 2019, ST. LOUIS COUNTY PUBLIC WORKS, LOWER-LEVEL TRAINING ROOM, VIRGINIA, MN.**

9:45 AM – 10:40 AM

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

Board of Adjustment members absent: None - 0

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

NEW BUSINESS:

- A. Robyn Cooper – S8, T69N, R21W (Kabetogama)
- B. Knutson Construction – S17, T53N, R13W (North Star)

OTHER BUSINESS:

Motion by Svatos/Skraba to approve the minutes of the September 12, 2019 meeting.

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

Opposed: None – 0

Motion carried 7-0

NEW BUSINESS:

Case 6203 – Robyn Cooper

The first hearing item was for Robyn Cooper, property located in S8, T69N, R21W (Kabetogama). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, 3.4 and Article IV, Section 4.3D, to allow a principal structure replacement at a reduced shoreline setback and to allow a principal structure to exceed 20 feet in height when located within the shore impact zone. *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a 52 foot by 26 foot replacement principal dwelling. The existing dwelling is 936 square feet in size. The proposed dwelling is 1,352 square feet in size.
- B. The proposed dwelling will be located at the same location as the current dwelling, utilizing the existing foundation located 45 feet from the shoreline where 75 feet is required.
- C. The proposed height of the dwelling will be 32 feet where 20 feet is allowed for a structure within the shore impact zone.
- D. The existing dwelling is 16 feet in height.

- E. If the structure was outside of the shore impact zone, they would be allowed 25 feet in height.
- F. The original request was for an addition. The applicants worked with staff in order to come up with the proposal for a replacement dwelling.
- G. The current structure is located 35 feet from the septic system, which may be a grinder station.
- H. The proposed structure will meet property line setbacks.
- I. The dwelling is located within the resort and is not part of the rental cabins.
- J. The area in front of the cabin is a driving surface and there is little vegetative screening. There is good screening from adjacent properties.

Donald Rigney reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Lake Kabetogama is a General Development lake and requires a 75 foot shoreline setback; the applicant is requesting a 45 foot shoreline setback.
- 2. Zoning Ordinance 62 allows a maximum of 20 feet in height for principal structures within the shore impact zone. The request is for a height of 32 feet from grade to roof peak.
- 3. St. Louis County Comprehensive Land Use Plan states Goal LU-3: Improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
- 4. St. Louis County Comprehensive Land Use Plan states Objective LU-3.3: Acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted Minnesota Statute 394.22 Subd. 10.

B. Practical Difficulty:

- 1. There is an existing community septic system that may prevent full conformance of the required shoreline setback.
- 2. The landowner has not clearly demonstrated why the variance is the only available option as there are alternatives.
 - a. Alternative: The structure may be relocated outside the shore impact zone to maximize the shoreline setback to the greatest extent possible. A 400 square foot addition with a height of 25 feet may be allowed with a performance standard permit.
 - b. Alternative: At its current location, a 200 square foot addition with a height of 20 feet may be allowed with a performance standard permit.

C. Essential Character of the Locality:

- 1. The applicant is not proposing a new use to the area. The dwellings in the area are used as both seasonal and year-round residences.
- 2. The proposed dwelling is within Park Point Resort. There are three other resorts within the Plat of Puck's Point: Grandview of Lake Kabetogama, North Star Resort and Birch Gove Resort.
- 3. There have been no recorded variances similar to the applicant's request within the Plat of Puck's Point.

D. Other Factors:

1. There is suitable buildable area on the parcel to move the dwelling outside the shore impact zone.
2. A comparable principal dwelling may be constructed with a performance standard permit without variance.
3. The request is for a replacement dwelling within the shore impact zone that is 416 square feet larger than the existing structure and 16 feet taller. Zoning Ordinance 62 allows up to a 200 square foot addition with a height of 20 feet for structures located between 25 feet from the shoreline and the shore impact zone.
4. Area on the lake side of the dwelling is utilized as a driving surface and is absent of vegetative screening. The proposed structure will be twice the height of the existing structure and will also have poor vegetative screening due to the driving surface.
5. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

Donald Rigney noted two items of correspondence from Dennis Odin Johnson and Tessa Hill and Bonnie and Darren Amundson in support of the variance request. This correspondence was passed out to the Board 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 replacement principal structure at a reduced shoreline setback and to allow a principal structure to exceed 20 feet in height when located within the shore impact zone, the following conditions shall apply:

1. The setback for the proposed structure shall be maximized to the greatest extent possible, and shall be no closer than 50 feet from the shoreline.
2. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
3. The stormwater runoff from the proposed structure shall not discharge directly into the lake or on adjacent lots.
4. A vegetative screening plan to establish a natural buffer between the structure and rip rapped shoreline shall be submitted, approved by the county and shall be implemented by the property owner within one year from the of the issuance of a land use permit.

Jason Cooper, the applicant, stated they are willing to move the new structure back as far as they possibly can to still maintain the 10 foot setback from the grinder station and use part of the existing foundation. They could move the structure back 55 to 58 feet and be located 10 to 12 feet from the grinder station. They will be able to add 400 square feet to the rear. The 400 square feet is for the applicant who works from home as well as an office for the resort. The existing resort office is small. Their main concern is with the height restriction. Their contractor's concern was the roof pitch; their existing roof has issues with snow removal. They could use 28 to 30 feet in height for their roof in order to raise the peak to prevent roof issues. There may be space with the increased roof pitch and they have not decided what they will put in the additional space. Because they could use the additional living space, they might add a small loft. The 25 foot height restriction would

not allow them to do that. They would be ducking down on the sides on a second story. The roof will be one continuous roofline.

There is an existing driving area in front of the dwelling where people back their boats into the water at their boat landing.

Robyn Cooper, the applicant, stated they do not have a design currently because they were waiting for variance approval.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Inquired how far the structure can be moved back because of the septic system. *Donald Rigney* stated that the structure could be moved out of the shore impact zone, 15 to 20 feet. *Jenny Bourbonais*, Acting Secretary, stated that as long as the structure is 10 feet from the septic system, the setback could be maximized to the greatest extent. The intent is to move the structure out of the shore impact zone.
- B. If a vegetation screening plan would be necessary for a driving surface.

DECISION

Motion by Skraba/Savtos to approve a variance to allow a principal structure replacement at a reduce shoreline setback and to allow a principal structure at a maximum height of 32 feet where 20 feet is allowed when located within the shore impact zone, based on the following facts and findings:

- A. Official Controls:
 1. The request is partially in harmony with the general purpose and intent of official controls.
 2. It would make no sense to move the structure into the middle of a resort. The current location is private and the structure is not a part of the commercial rental units of the resort.
 3. The applicant is willing to move the proposed structure out of the shore impact zone and change the foundation.
- B. Practical Difficulty:
 1. It would make no sense to move the dwelling into the middle of a resort. There is privacy where the structure is located.
 2. The applicant is willing to move the proposed structure out of the shore impact zone and maintain the setback to the septic system.
- C. Essential Character of the Locality:
 1. The variance will not change the essential character of the locality.
- D. Other Factor:
 1. This is an existing resort and a business. The closest neighbor is some distance away.

The following conditions shall apply:

1. The setback for the proposed structure shall be maximized to the greatest extent possible, and shall be no closer than 50 feet from the shoreline.
2. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
3. The stormwater runoff from the proposed structure shall not discharge directly into the lake or on adjacent lots.

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

Opposed: None - 0

Motion carried 7-0

Case 6201 – Knutson Construction

The second hearing item was for Knutson Construction, property located in S17, T53N, R13W (North Star). The applicant is requesting a continuance from the September 12, 2019 hearing for relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow additions to a nonconforming principal structure at a reduced shoreline setback and relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D, to allow an addition to a nonconforming principal structure located at a reduced shoreline setback to exceed square footage allowed.

Stephen Erickson, St. Louis County Planner, reviewed the staff report as follows:

- A. This is a hearing from a case that was denied without prejudice on September 12, 2019.
- B. The applicant and landowners have worked with staff on a new proposal.
- C. The applicant is proposing to construct an addition to an existing 32 foot by 20 foot cabin that is located 78 feet from the shoreline where 150 feet is required.
- D. The addition will be to the rear and northeast side of the structure. The structure is currently located outside of the shore impact zone. The proposed addition will also be located outside of the shore impact zone.
- E. The existing cabin is 640 square feet in size. The proposed addition is 1,440 square feet. The total structure footprint will be 2,080 square feet.
- F. The structure is located on top of a ridge that slopes forward to the lake and slopes behind towards the road.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Little Alden Lake is classified as a natural environment lake; Zoning Ordinance 62 requires a 150 foot shoreline setback from natural environment lakes. The shore impact zone for a natural environment lake is 75 feet from the shoreline. The current structure is located 78 feet from the lake and outside the shore impact zone.
 2. St. Louis County Comprehensive Land Use Plan states Goal LU-3: Improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
 3. Objective LU-3.1 of the 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.

4. The parcel is located in the Natural Areas on the Future Land Use Map in the Comprehensive Land Use Plan. This area is intended to protect areas of St. Louis County that are unsuitable for intensive development due to existing environmental constraints, such as flood-prone areas, areas under conservation easement, significant wildlife habitat areas, or other features likely to be harmful to the community if development is not properly managed in these areas.

B. Practical Difficulty:

1. The existing cabin has a footprint of 640 square feet. The proposed addition will increase the footprint to approximately 2,080 square feet. This will increase the existing structures footprint by nearly three times its current size.
2. There are alternatives that do not require a variance:
 - a. Alternative: The structure would be allowed up to a 400 square foot addition through a performance standard permit.
 - b. Alternative: The existing structure could be relocated or rebuilt at a conforming location on the parcel.
 - c. Alternative: A structure similar in size to the existing structure may be allowed through a performance standard permit, if the structure setback was maximized to the greatest extent.
3. The existing structure is located on top of a ridge. To meet the required shoreline setback, the structure could be located on the back side of the ridge.
4. There may be wetlands located on the parcel but the wetland location will not impact the structure's ability to meet the required setback or be maximized to the greatest extent possible.
5. The proposed septic system is located to the north of the existing driveway and south of North Little Alden Lake Road. This proposed location would not prevent the structure from being relocated to the 150 foot setback.

C. Essential Character of the Locality:

1. A variance was approved on a parcel approximately 400 feet to the east of the applicant's parcel. The approved variance allowed an addition to a structure at a reduced shoreline setback. The reduced setback was 112 feet from the shoreline. The 1995 variance does not give reasoning for approval.

D. Other Factors:

1. The proposed additions will increase the cabin footprint by approximately 1,440 square feet.
2. The proposed septic location will not impede the structure's ability to be moved to a conforming shoreline setback.
3. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
4. Staff met the applicant and property owners on-site on September 25, 2019 to further discuss development options. The applicant has proposed to eliminate the need for two previous variance requests.

- a. A variance request to allow an addition to encroach on a nonconforming shoreline setback and to be located within the shore impact zone has been withdrawn.
- b. A variance request to exceed the height limit allowed when located within the shore impact zone is no longer necessary as the applicant has proposed to maintain the height limit of 25 feet, which is allowed at the current location of the structure.

Stephen Erickson 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 relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D, to allow a 1,440 square foot addition to a nonconforming principal structure located at a reduced shoreline setback the following conditions shall apply:

1. If it is determined that the principal structure is not structurally sound enough for an addition, the structure shall be rebuilt at the 150 shoreline setback.
2. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
3. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
4. A land alteration permit shall be submitted before the issuance of a land use permit.
5. All SSTS sewage treatment standards shall be met.
6. The Wetland Conservation Act shall be followed.

Brian Marsolek, 4412 Gladstone Street, Duluth, landowner, stated the current proposal will meet the need for both parties. If they moved the structure to the 150 foot setback, they would lose their view of the lake and part of the structure would be in a low, wet area. At that location they would also need to remove a large number of trees. There is also wildlife in this area that may be disturbed if the dwelling was constructed in this location.

He read a statement from his son, Seth Marsolek, who was unable to attend. The landowners and their contractor have developed a footprint that did not encroach on the 75 foot shore impact zone, will not impact the sight lines to the lake and will not increase the height allowed. This property has been enjoyed by their family for four generations. His grandfather built the original cabin. Upon its completion it was the second cabin built on Little Alden Lake.

Andrew Knutson, applicant and contractor, stated that this is the updated site plan after meeting with staff on location. The landowners wanted to maintain the integrity of the existing cabin and take cost into consideration on this newest plan. The new foundation will be slab on grade and will have a crawl space where mechanicals will be. They were able to offset the location of the screen porch. There will also be a covered entrance into the back of the house.

No other audience members spoke.

DECISION

Motion by Skraba/Pollock to approve a variance request to allow a 1,440 square foot addition to a nonconforming principal structure located at a reduced shoreline setback of 78 feet where 150 feet is required, based on the following facts and findings:

A. Official Controls:

1. The variance request is partially in harmony with the general purpose and intent of official controls.
2. While this structure is on a Natural Environment lake, the 150 foot shoreline setback would place any new structure behind a hill and in a low wetland area.
3. The structure is located outside of the shore impact zone and the proposed addition will be located outside of the shore impact zone.

B. Practical Difficulty:

1. The applicants will utilize an existing cabin. The applicant will also stay within the height requirement for a structure located within the shoreline setback.

C. Essential Character of the Locality:

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

D. Other Factors:

1. The applicant has worked with staff to eliminate the need for two previous variance requests.
2. The applicant and landowners have worked with staff on coming up with a new proposal that will maximize the shoreline setback.

The following conditions shall apply:

1. If it is determined that the principal structure is not structurally sound enough for an addition, the structure shall be rebuilt at the 150 shoreline setback.
2. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
3. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
4. A land alteration permit shall be submitted before the issuance of a land use permit.
5. All SSTS sewage treatment standards shall be met.
6. The Wetland Conservation Act shall be followed.

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

Opposed: None - 0

Motion carried 7-0

Motion to adjourn by Skraba. The meeting was adjourned at 10:40 a.m.