

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD THURSDAY, JULY 11, 2019, ST. LOUIS COUNTY PUBLIC WORKS, LOWER-LEVEL TRAINING ROOM, VIRGINIA, MN.

12:02 PM – 3:37 PM

Board of Adjustment members in attendance: James McKenzie
Sonya Pineo
Dave Pollock
Roger Skraba
Ray Svatos (until 2:35 p.m.)
Diana Werschay, Chair

Board of Adjustment members absent: Steve Filipovich

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

NEW BUSINESS:

- A. Michael & Lori Huska - S36, T53N, R15W (Unorganized)
- B. Carolyn Woods - S31, T54N, R16W (Cotton)
- C. Mark Sutich - S15, T60N, R19W (Unorganized)
- D. Edward Alto - S14, T60N, R19W (Unorganized)
- E. John & Laurel Fedo - S7, T60N, R21W (French)
- F. Gary Drilling - S33, T61N, R12W (Unorganized)
- G. John Almeida - S27, T62N, R14W (Eagles Nest)

OTHER BUSINESS:

Motion by McKenzie/Svatos to approve the minutes of the June 13, 2019 meeting.

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

Opposed: None – 0

Motion carried 6-0

NEW BUSINESS:

Case 6187 – Michael and Lori Huska

The first hearing item was for Michael and Lori Huska, property located in S36, T53N, R15W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a principal structure at a reduced shoreline setback. *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is to allow a principal dwelling at a reduced shoreline setback. The applicant is proposing to build a 42 foot by 42 foot principal dwelling located 50 feet from the shoreline where 100 feet is required.
- B. The proposed dwelling would be located outside of the shore impact zone which is 50 feet from the shoreline.

- C. The proposed height of the dwelling will be 24 feet where 25 feet is allowed.
- D. The dwelling will replace an existing 935 square foot dwelling that is currently 21 feet from the shoreline.
- E. The property is a Minnesota Power lease.

Donald Rigney reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Island Lake Reservoir is a Recreation Development lake and requires a 100 foot shoreline setback; the applicant is requesting a 50 foot shoreline setback.
- 2. In the event that the variance is granted and the principal dwelling is allowed to be constructed at a nonconforming location, any future expansion to the dwelling will require variance.
- 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 no unique circumstance of the property that the owner did not create.
- 2. Due to the existing development on the parcel, there is limited area for the construction of a conforming dwelling.
- 3. The location of the powerlines on the lot do not significantly impede the ability to construct a dwelling at a conforming shoreline setback.
- 4. The landowner has not clearly demonstrated why the variance is the only available option as there are alternatives.
 - a. Alternative: There is area on the lot to construct a principal structure comparable in size to the existing principal structure in a manner that conforms to the 100 foot shoreline setback and all other zoning ordinance requirements.
 - b. Alternative: A replacement dwelling of equal size or up to an additional 400 square feet larger may be allowed with a performance standard permit.
 - c. Alternative: A change in use permit in conjunction with a land use permit for an addition to the existing garage may be issued to convert the garage/bunkhouse to a principal dwelling at a conforming shoreline setback.

C. Essential Character of the Locality:

- 1. The applicant is not proposing a new use to the area. The dwellings in this area are used as both seasonal and year-round residences.
- 2. The majority of the dwellings in this area are located at a nonconforming shoreline setback. The location of the dwellings are influenced by one or multiple factors including being built prior to a zoning ordinance, lease lot configuration, road location, powerline location and wetland presence.
- 3. Since 1997, there have been two variances granted in the area for principal dwellings at a reduced shoreline setback. Both variances allowed a reduced shoreline setback of 50 feet where 100 feet is required.

- a. The variance in 1997 was granted due to limited conforming buildable area caused by the location of the dwelling on a peninsula and the orientation of the Minnesota Power lease lots.
- b. The variance in 2000 was granted due to an open water wetland restricting the ability of the dwelling being located at a conforming location.

D. Other Factors:

1. 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.
2. A comparable principal dwelling may be constructed with a land use permit that conforms to all zoning ordinance requirements.
3. A comparable principal dwelling may be constructed with a performance standard permit without variance.
4. The location of the existing drain field limits but does not eliminate the buildable area for a conforming structure.
5. At the time of this report, the St. Louis County Planning and Community Development Department has not received any notification from Minnesota Power indicating a required setback from the powerlines located on the lease lot.

Donald Rigney noted one item of correspondence from Tom Stender in support of this variance request.

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 (dwelling) at a reduced shoreline setback, 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 plan to enhance vegetation and protect the shore impact zone shall be submitted, approved by the county and shall be implemented by the property owner prior to the issuance of a land use permit.

Charles Andresen, Hanft Fride Law, stated he is representing the applicant. The current structure is 21 feet from the shoreline and is both old and in rough shape. The cost to rehabilitate the structure is high and the only option is to replace it. Most of the structures in the area are less than 50 feet from the shoreline. This new structure would be set further back than what most dwellings in the area are.

Minnesota Power requires building 10 feet from the powerline but they prefer more. The roads, the powerline and the drainfield restrict where a new building can be placed. To use staff's

alternative location would be to remove a number of trees. The applicant wants to plant more trees in this area. The other option would be to convert the existing garage into a dwelling, which would be difficult as the applicant stores boats there in the winter.

The applicant is proposing 1,536 square feet, which is just over 200 square feet than what a performance standard permit would allow. Their current structure is 935 square feet in size. The proposed structure would be built away from the roads, the powerline and the drainfield.

Lori Huska, the applicant, passed out pictures to the Board. Adding an addition onto the garage would look strange with the two garage doors. Their garage stores a pontoon and fishing boat with a bunkhouse above. They back out of the garage onto the drainfield in order to get into the garage. The other alternative building area is heavily treed. They lost a number of trees in their yard after the massive wind storm a few years ago. The current cabin is not shaded and they intend to plant more trees in this area. The 200 square foot difference is a screen porch which would allow them to enjoy the outdoors. They keep their shoreline natural. They do not want a large structure. They just want it to be in line with what the neighboring properties have.

No audience members spoke.

DECISION

Motion by Skraba/McKenzie to approve a variance to allow a principal structure (dwelling) at a reduced shoreline setback of 50 feet where 100 feet is required, 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. The building area is restricted due to the size of the lot and the location of trees. Trees are important for cover on the lake.

B. Practical Difficulty:

1. The applicant's proposal is increasing the lake setback from what is currently there. The current cabin is located 21 feet from the shoreline. The new dwelling will be located 50 feet from the shoreline.
2. Due to the existing development on the parcel, there is limited area for the construction of a conforming dwelling.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The dwellings in this area are used as both seasonal and year-round residences.
2. The majority of the dwellings in this area are located at a nonconforming shoreline setback. The location of the dwellings are influenced by one or multiple factors including being built prior to a zoning ordinance, lease lot configuration, road location, powerline location and wetland presence.
3. Since 1997, there have been two variances granted in the area for principal dwellings at a reduced shoreline setback. Both variances allowed a reduced shoreline setback of 50 feet where 100 feet is required.

- a. The variance in 1997 was granted due to limited conforming buildable area caused by the location of the dwelling on a peninsula and the orientation of the Minnesota Power lease lots.
- b. The variance in 2000 was granted due to an open water wetland restricting the ability of the dwelling being located at a conforming location.

D. Other Factor:

1. The best location is where the applicant is proposing to build.

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 plan to enhance vegetation and protect the shore impact zone shall be submitted, approved by the county and shall be implemented by the property owner prior to the issuance of a land use permit.
5. Demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

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

Opposed: None - 0

Motion carried 6-0

Case 6188H – Carolyn Woods

The second hearing item was for Carolyn Woods, property located in S31, T54N, R16W (Cotton). The applicant is requesting relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F., Table VII, to allow a septic/pump tank at a reduced property line and structure setback. *Jason Walsh*, St. Louis County Environmental Specialist, reviewed the staff report as follows:

- A. The request is to allow a SSTS located one foot from the eastern property line where ten feet is required and five feet from a structure where ten feet is required.
- B. The parcel is narrow.
- C. The septic tank needs to be moved eight feet to make the system compliant with the well setback. The well was installed without consideration of the location of the SSTS.
- D. The location of the well and the setback from the house limit where a SSTS could be placed.

Jason Walsh reviewed staff facts and findings as follows:

A. Official Controls:

1. St. Louis County SSTS Ordinance 61 adopted Technical Standards require a minimum setback of ten feet from property lines and structures for sewage tanks. The applicant is requesting one foot from the eastern property line and five feet from a neighboring structure.

B. Practical Difficulty:

1. There is no unique circumstance of the property that the owner/installer did not create.
2. Due to existing property development on the parcel (buildings and well), there is no alternative for tank placement.
3. One alternative would be to drill a new well further away from the tank to meet the required setback.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area.
2. The current system upgraded a failing system.
3. Neighboring properties have septic systems and holding tanks.
4. Most neighboring parcels have 100 foot wide lots.

D. Other Factor:

1. A tank will be required to continue the use of the dwelling.
2. Cost comparison between relocating the tank versus drilling a new well.

Jason Walsh noted one item of correspondence from Matthew and Lisa Mahoney with concerns about the request.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a sewage tank one foot from the eastern property line and five feet from structure setback, the following conditions shall apply:

1. Environmental Services staff shall be on site during the relocation of the sewage tank.
2. The setback for the proposed tank shall be maximized to the greatest extent possible, and shall be no closer than one foot from the property line.

Carolyn Woods, the applicant, stated that drilling and relocating a well would be far more expensive than moving a septic tank. The original septic installer will be the one moving the tank. She is working to sell her house and needs the compliance certificate in order to put her house on the market.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Inquired if the applicant's drainfield would impact the neighbor's well. *Jason Walsh* stated it will not.
- B. Inquired if staff had spoken with the adjoining landowner about how they could lose their trees along the property line because the root system may be affected by the location of the new septic tank. *Jason Walsh* stated he did respond to the adjoining neighbor's correspondence.

DECISION

Motion by Skraba/Svatos to approve a variance request to allow a sewage tank one foot from the eastern property line where ten feet is required and five feet from a principal structure where ten feet is required, based on the following staff facts and findings:

A. Official Controls:

1. St. Louis County SSTS Ordinance 61 adopted Technical Standards require a minimum setback of ten feet from property lines and structures for sewage tanks. The applicant is requesting one foot from the eastern property line and five feet from a neighboring structure.

B. Practical Difficulty:

1. There is no unique circumstance of the property that the owner/installer did not create.
2. Due to existing property development on the parcel (buildings and well), there is no alternative for tank placement.
3. One alternative would be to drill a new well further away from the tank to meet the required setback.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area.
2. The current system upgraded a failing system.
3. Neighboring properties have septic systems and holding tanks.
4. Most neighboring parcels have 100 feet wide lots.

D. Other Factor:

1. A tank will be required to continue the use of the dwelling.
2. Cost comparison between relocating the tank versus drilling a new well.

The following conditions shall apply:

1. Environmental Services staff shall be on site during the relocation of the sewage tank.
2. The setback for the proposed tank shall be maximized to the greatest extent possible, and shall be no closer than one foot from the property line.

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

Opposed: None - 0

Motion carried 6-0

Case 6189 - Mark Sutich

The third hearing item was for Mark Sutich, property located at S15, T60N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.10 C., to allow a water oriented accessory structure at a reduced shoreline setback and to allow a water oriented accessory structure to exceed maximum height. *Jared Ecklund*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to allow an existing water oriented accessory structure (sauna) to exceed the maximum height and to be located at reduced shoreline and property line setbacks.
- B. The applicant is proposing to remodel an existing sauna.
 1. The structure would be lifted to the ground elevation, raising its height.
 2. The wall height would be increased by two feet.

3. The height overall will be increased by five feet from 14 feet in height to 19 feet in height.
- C. The structure is currently grandfathered in. Any remodeling that goes beyond the ordinance definition of 'repair' would need to meet all ordinance requirements.
- D. The structure would exceed the maximum allowed height of 12 feet.
- E. The structure is currently located at a reduced shoreline setback of 12 feet where 30 feet is required.
- F. The structure is currently located at a reduced property line setback of six feet where ten feet is required.
- G. There has been a survey submitted with the application. This survey was included with the Board of Adjustment packet.
- H. The applicant had a variance approval in May 2019 for an addition to remain on the dwelling. Drainage issues were discussed during this hearing. Some erosion and sediment control practices have been utilized.

Jared Ecklund reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62 states that any grandfathered structure or deck that is altered, replaced or partially replaced beyond what is allowed for remodeling shall no longer be considered grandfathered and shall meet all standards of this ordinance except as otherwise allowed per state statute.
 - a. The proposed alterations go beyond remodeling and the structure could be brought into compliance to meet all standards of Zoning Ordinance 62.
2. Zoning Ordinance 62 states that the required property line setback for an accessory structure in this zone district is ten feet; the applicant is proposing the structure to remain at a property line setback of six feet.
3. Zoning Ordinance 62 states that the required shoreline setback for a water oriented accessory structure, other than a boathouse, is 30 feet; the applicant is proposing the structure to remain at a reduced shoreline setback of 12 feet.
 - a. Alterations to a structure that go beyond repair and remodel would require the structure to meet the requirements of Zoning Ordinance 62, including the shoreline setback.
4. Zoning Ordinance 62 states that the maximum allowed height for a water oriented accessory structure is 12 feet; the applicant is proposing to increase the height of the structure from 13.5 feet to 19 feet.
5. 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.
6. Objective LU-3.3 of the Comprehensive Land Use Plan 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.

B. Practical Difficulty:

1. The applicant's structure is already nonconforming, due to its setback from the shoreline, its setback from the property line, and the height of 13.5 feet.

- a. Increasing the height of the structure will increase a nonconformity on the property.
2. The sauna could be replaced with a performance standard permit, as long as the setback was maximized to the greatest extent possible and the height was not increased beyond the height of the existing structure.
 - a. It appears there is area for the structure to meet the 30 foot setback of a water oriented accessory structure.
3. The applicant stated that the height increase for the sauna is for more storage area.
 - a. The sauna could be replaced with a boathouse and used for storage of a boat/boating equipment at a setback of ten feet from the shoreline. The allowed size for a boathouse on this lake is 400 square feet.
 - b. A boathouse would not be allowed to be used as a sauna.
4. A conforming storage structure may be an option for additional storage space and may allow the sauna structure to remain grandfathered at its current location as long as the proposed alterations are not made.
5. Some drainage issues between the applicant's and neighbor's properties have led to the soil around and under the sauna to wash out.
 - a. The applicant has stated that the sauna has since stabilized after the soils washed out.
 - b. Moving the structure to a 30 feet setback may reduce the risk of soil washout around the structure caused by the drainage issues.
 - c. A possible conforming location for the sauna that avoids the drainage issues may be in front of the dwelling.

C. Essential Character of the Locality:

1. This area of Lake Leander has a significant amount of development along the shoreline.
2. There have been several variances approved in this area of Lake Leander due to a variety of circumstances around the lake, such as lot size/lot configuration, steep slopes and nonconforming dwelling locations.
3. The development around the lake is a mix of seasonal and year-round residential properties.
4. There are many water oriented accessory structures on Lake Leander with a wide range of sizes and setbacks.

D. Other Factor:

1. A significant amount of fill has been added near the area of the proposed addition to alleviate the drainage issue on the property. The fill consists of very fine sandy material that has started to erode down the slope toward the lake. Much of the fill material has deposited around the sauna, but some has been deposited into the lake.
 - a. There was not any erosion or sediment control in place near the shoreline at the time of the site visit. Erosion and sediment control practices have since been implemented as a temporary fix to the erosion issue caused by the fill that was brought in.

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 a water oriented accessory structure at a reduced property line setback of six feet where ten feet is required and to allow a water oriented accessory structure at a reduced shoreline setback of 12 feet where 30 feet is allowed and to allow a water oriented accessory structure 19 feet in height where 12 feet in height is allowed, the following conditions shall apply:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim and roof.
2. The stormwater from the structure shall not discharge directly into the lake or onto adjacent lots.
3. Any land alteration or shoreline work shall receive approval from the appropriate agency prior to the work commencing.

Mark Sutich, the applicant, stated there is a judicial pin on the property line. They bought 18 feet of shoreline for \$32,000 that they already owned. They have had battles over this property line. They have had drainage issues because of the runoff from their neighbor's property for the past 20 years. They used fill to make the ground to what it had been prior to the drainage issues. They want to restore the sauna and add storage to the structure. They would like to save the roof and two and a half walls and reinforce the walls to keep away frost damage. They want to get rid of the blocks and replace with a wood frame. They will also replace the drainage system around the sauna and elevate it back to ground level. The structure was built in the 1960s and they have only done some work to the walls. The additional space would be used for storage.

The neighbor's elevation is higher than theirs and any height increase to the sauna would not block their neighbor's view. They did say there would be no new construction in this area which is why they are renovating. The Board of Adjustment granted their neighbor the variance for their dwelling which has been pushing runoff onto their property for years. The sauna would have held up without the additional runoff.

There are other water oriented accessory structures on the lake with similar structure heights and setbacks. He handed out pictures to the Board to show these other structures. He is trying to put his property into compliance.

Candy Sutich, the applicant, stated that they want to raise the structure up to water level as it has sunk two feet.

Jared Ecklund stated that this would be allowed as it would meet the definition of 'repair' as long as the height increase is three feet or less. To add any additional height to the walls would be beyond what is allowed under the definition of 'repair.' The applicants would be allowed to repair their structure as long as it fits the ordinance definition of 'repair.' The applicant would be able to raise the structure to its original elevation at lake level. They would not be able to increase the height beyond that.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Inquired where the property line is actually located. *Jared Ecklund* stated that the line is along the tree line. A survey was submitted with the packet information.
- B. Inquired if there was an issue about the height of the structure blocking the neighbor's view. *Jenny Bourbonais* stated there is elevation change and the neighboring property is higher than the applicant's.
- C. Inquired what is the maximum height allowed for a boathouse. *Jared Ecklund* stated 14 feet is the maximum height allowed for a boathouse. Any other water oriented accessory structure is allowed 12 feet in height. A boathouse on this lake could be 400 square feet in size.
- D. Inquired if a performance standard permit would require a 30 foot shoreline setback. *Jared Ecklund* stated the setback determination is based on state statute that would allow construction if there is something to restrict a structure being placed at the 30 foot shoreline setback.
- E. Inquired if there had been a stipulation regarding any further variances on the property. *Jenny Bourbonais* read the condition from the May 9, 2019 variance approval: *"In the event that the applicant applies for future variances for additions to the principal dwelling, the lakeside addition not included in the original 1981 variance shall be converted into a deck and meet all other ordinance requirements."*

DECISION

Motion by McKenzie/Pollock to deny a variance request to allow a water oriented accessory structure at a reduced property line setback of six feet where ten feet is required and to allow a water oriented accessory structure at a reduced shoreline setback of 12 feet, where 30 feet is allowed and to allow a water oriented accessory structure 19 feet in height where 12 feet in height is allowed, based on the following staff facts and findings:

- A. Official Controls:
 - 1. Zoning Ordinance 62 states that any grandfathered structure or deck that is altered, replaced or partially replaced beyond what is allowed for remodeling shall no longer be considered grandfathered and shall meet all standards of this ordinance except as otherwise allowed per state statute.
 - a. The proposed alterations go beyond remodeling and the structure could be brought into compliance to meet all standards of Zoning Ordinance 62.
 - 2. Zoning Ordinance 62 states that the required property line setback for an accessory structure in this zone district is ten feet; the applicant is proposing the structure to remain at a property line setback of six feet.
 - 3. Zoning Ordinance 62 states that the required shoreline setback for a water oriented accessory structure, other than a boathouse, is 30 feet; the applicant is proposing the structure to remain at a reduced shoreline setback of 12 feet.
 - a. Alterations to a structure that go beyond repair and remodel would require the structure to meet the requirements of Zoning Ordinance 62, including the shoreline setback.
 - 4. Zoning Ordinance 62 states that the maximum allowed height for a water oriented accessory structure is 12 feet; the applicant is proposing to increase the height of the structure from 13.5 feet to 19 feet.
 - 5. 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.

6. Objective LU-3.3 of the Comprehensive Land Use Plan 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.

B. Practical Difficulty:

1. The applicant's structure is already nonconforming, due to its setback from the shoreline, its setback from the property line, and the height of 13.5 feet.
 - a. Increasing the height of the structure will increase a nonconformity on the property.
2. The sauna could be replaced with a performance standard permit, as long as the setback was maximized to the greatest extent possible and the height was not increased beyond the height of the existing structure.
 - a. It appears there is area for the structure to meet the 30 foot setback of a water oriented accessory structure.
3. The applicant stated that the height increase for the sauna is for more storage area.
 - a. The sauna could be replaced with a boathouse and used for storage of a boat/boating equipment at a setback of 10 feet from the shoreline. The allowed size for a boathouse on this lake is 400 square feet.
 - b. A boathouse would not be allowed to be used as a sauna.
4. A conforming storage structure may be an option for additional storage space and may allow the sauna structure to remain grandfathered at its current location as long as the proposed alterations are not made.
5. Some drainage issues between the applicant's and neighbor's properties have led to the soil around and under the sauna to wash out.
 - a. The applicant has stated that the sauna has since stabilized after the soils washed out.
 - b. Moving the structure to a 30 feet setback may reduce the risk of soil washout around the structure caused by the drainage issues.
 - c. A possible conforming location for the sauna that avoids the drainage issues may be in front of the dwelling.

C. Essential Character of the Locality:

1. This area of Lake Leander has a significant amount of development along the shoreline.
2. There have been several variances approved in this area of Lake Leander due to a variety of circumstances around the lake, such as lot size/lot configuration, steep slopes and nonconforming dwelling locations.
3. The development around the lake is a mix of seasonal and year-round residential properties.
4. There are many water oriented accessory structures on Lake Leander with a wide range of sizes and setbacks.

D. Other Factor:

1. A significant amount of fill has been added near the area of the proposed addition to alleviate the drainage issue on the property. The fill consists of very fine sandy material that has started to erode down the slope toward the lake. Much of the fill material has deposited around the sauna, but some has been deposited into the lake.
 - a. There was not any erosion or sediment control in place near the shoreline at the time of the site visit. Erosion and sediment control practices have since been implemented as a temporary fix to the erosion issue caused by the fill that was brought in.

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

Opposed: None - 0

Motion carried 6-0

Case 6190 - Edward Alto

The fourth hearing item was for Edward Alto, property located in S14, T60N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a water oriented accessory structure at a reduced property line setback, and Article VI, Section 6.10 C., to allow a water oriented accessory structure at a reduced shoreline setback. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is to allow an existing nonconforming cabin to remain as a water oriented accessory structure located 25 feet from the shoreline where 30 feet is allowed and five feet from the property line where ten feet is required.
- B. There are two nonconforming water oriented accessory structures located on the property. The applicant is proposing to remove both.

Mark Lindhorst reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Zoning Ordinance 62, Article III, Section 3.2, requires a 10 foot property line setback for accessory structures.
 2. Zoning Ordinance 62, Article VI, Section 6.01 C., allows a 30 foot shoreline setback for water oriented accessory structures.
 3. The parcel is located in the Lakeshore Development Area on the Future Land Use Map found 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.
 4. 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.
 5. Objective LU-3.2 - County staff and decision makers will work together to decrease the amount of nonconformities throughout the county.
 6. Objective LU-3.3 - Acknowledges why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd.10.

B. Practical Difficulty:

1. There are no physical limitations for development on the property.
2. The applicant has several alternatives that would not require a variance.
 - a. Move the structure to the allowed water oriented accessory structure setback.
 - b. Move the structure to the 100 foot setback and apply for a new water oriented accessory structure that meets all setbacks.

C. Essential Character of the Locality:

1. The majority of development in the neighborhood meets the required setbacks and allowed uses.

D. Other Factor:

1. The applicant has several alternatives for not requiring a variance. However, this is an existing structure that has been in place since the property was developed. The structure is smaller than the 250 square feet size limit that is allowed for a water oriented accessory structure.

Mark Lindhorst 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 water oriented accessory structure five feet from the property line and 25 feet from the shoreline, the following conditions shall apply:

1. The owner shall remove the other two nonconforming structures (boathouse and storage building) prior to issuance of any future land use permits.
2. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.

Edward Alto, the applicant, stated the cabin has been there since 1952 and was constructed by his father. The cabin was there before neighboring properties were developed. The new cabin will be 134 feet from the shoreline and a new SSTS has been approved and installed and located 180 feet from the shoreline. He does not want a boathouse because his boat would be larger than the size of boathouse allowed. The existing structure is 12 foot by 18 foot and it would be difficult to move off of the property without removing trees. He also discussed the foundation type and that the foundation is a continuous cement foundation that is permanent and would make it difficult to remove or move the structure.

No audience members spoke.

DECISION

Motion by McKenzie/Skraba to approve a variance to allow a water oriented accessory structure five feet from the property line where 10 feet is required and 25 feet from the shoreline where 30 feet is allowed, based on the following facts and findings:

A. Official Controls:

1. The variance request would be in harmony with the general intent and purpose of official controls because two nonconforming structures will be removed.
2. Only one structure will remain at a reduced shoreline setback.

B. Practical Difficulty:

1. Moving the structure to the proper setback will require removal of trees.
2. The age of the structure and foundation may make it difficult to move.

C. Essential Character of the Locality:

1. The request will not alter the essential character of the locality. The structure will remain where it has been since 1952.

D. Other Factor:

1. The applicant has several alternatives for not requiring a variance. However, this is an existing structure that has been in place since the property was developed. The structure is smaller than the 250 square feet size limit that is allowed for a water oriented accessory structure.
2. The property owner is working to minimize nonconformities by removing two nonconforming water oriented accessory structures.
3. A new cabin is being constructed beyond the required setback.
4. The applicant shall remove the other two nonconforming structures located at reduced shoreline setback.

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

Opposed: None - 0

Motion carried 6-0

Case 6191 – John and Laurel Fedo

The fifth hearing item was for John and Laurel Fedo, property located in S7, T60N, R21W (French). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., to allow a nonconforming principal structure to exceed the maximum height allowed when located within the shore impact zone. Board members *Skraba* and *Svatos* disclosed they know the applicant, but have no financial or other interest in the proposal. The Board found no conflict of interest with board members *Skraba* and *Svatos* participating in the hearing. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The request is to add a second story addition to a dwelling located 38 feet from the shoreline.
- B. The requested structure height is 27 feet where a 20 foot structure height is allowed for a structure that is located within the shore impact zone.
- C. The topography on this part of the lake is fairly level compared to other areas.
- D. The applicants are proposing a 4/12 pitch roof.
- E. There are tall trees and vegetation at the shoreline.
- F. The roof is currently 17 feet in height.
- G. A permit to construct for the septic system is required before any land use permit can be issued.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62, Article IV, Section 4.3 D., allows for a maximum height of 20 feet for a principal structure located within the shore impact zone.
2. The property falls under the Lakeshore Development Area of the St. Louis County Comprehensive Land Use Plan. These areas are intended for new development and redevelopment of existing residential areas such as single family residential.
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. 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.

B. Practical Difficulty:

1. An addition size of 200 square feet would be allowed with a performance standard permit.
2. The second story addition will not create additional impervious area or require excavation or vegetation removal in the near shore area.

C. Essential Character of the Locality:

1. The neighborhood consists of large lakeshore parcels with limited development. The adjacent parcels have structures that are nonconforming due to lake setback.

Mark Lindhorst 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 for a structure height of 27 feet, the following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The shore protection zone shall be preserved in a natural state and screening shall be retained.
3. All SSTS onsite sewage treatment system requirements shall be followed.
4. The proposal shall adhere to all local, state and federal regulations.

John Fedo, the applicant, stated that they have lived on this property for about 27 years. There are three bedrooms. The property has a sauna, pole building and garage. Their intention with the additional space is to move the laundry room from the sauna into their house. They would like to expand bedrooms for additional space as their family has grown from four children and twelve grandchildren. They are also replacing their roof. Another aspect of the SSTS upgrade is they will be able to use pressurized water in their sauna and hook it into the septic system. Roof replacement is essential to live there. They have a lot of screening and want to continue having their privacy. They cannot see their neighbors from this property.

Laurel Fedo, the applicant, stated that they have had rotting issues with their timber frame roof. They need to replace this roof before winter. The chimney will be removed and not replaced. There were four other property owners that have added additions and this is their first addition. They are squeezing into rooms now and would like to be able to use their cabin as a dwelling. There is no room for storage in their house.

Eric Crego, 2220 1st Avenue, Hibbing, is the Fedo's contractor.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. If there would be any impediments to the neighboring property if the structure height was increased to 27 feet. *Mark Lindhorst* verified that no neighboring sightlines to the lake would be impacted.
- B. Discussed that the pitch of the roof is fairly low at a 4/12 pitch.
- C. Discussed the health, safety and reasonable accommodations for aging be considered as part of reasoning for this request.

DECISION

Motion by Skraba/Pollock to approve a variance request for a structure height of 27 feet where 20 feet is allowed, 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. Zoning Ordinance 62, Article IV, Section 4.3 D., allows for a maximum height of 20 feet for a principal structure located within the shore impact zone.
 3. The property falls under the Lakeshore Development Area of the St. Louis County Comprehensive Land Use Plan. These areas are intended for new development and redevelopment of existing residential areas such as single family residential.
 4. 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.
 5. 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.
- B. Practical Difficulty:
 1. The addition will give the applicants' reasonable accommodation in their senior years.
 2. The second story addition will not create additional impervious area or require excavation or vegetation removal in the near shore area.
- C. Essential Character of the Locality:
 1. This request will not alter the essential character of the locality.

2. The neighborhood consists of large lakeshore parcels with limited development. The adjacent parcels have structures that are nonconforming due to lake setback.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The shore protection zone shall be preserved in a natural state and screening shall be retained.
3. All SSTS onsite sewage treatment system requirements shall be followed.
4. The proposal shall adhere to all local, state and federal regulations.
5. Demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

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

Opposed: None - 0

Motion carried 6-0

Case 6192 – Gary Drilling

The sixth hearing item was for Gary Drilling, property located in S33, T61N, R12W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow additions to a principal structure at a reduced property line setback and relief from St. Louis County Zoning Ordinance 62, Article II, Section 2.4, F., to exceed 55 percent lot width facing the lake. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for principal structure additions at a reduced property line setback. The structure with the proposed additions will exceed 55 percent lot width facing the lake.
- B. The applicant is proposing to construct a 22 foot by 32 foot attached garage that will be located 10 feet from the property line where 15 feet is required.
- C. The applicant is also proposing to build a 12 foot by 12 foot screen porch to be located 13 feet from the property line where 15 feet is required.
- D. The existing dwelling is 44 feet wide facing the lake. The proposed additions will increase the dwelling width facing the lake to 57 feet. This will increase the structure width facing the lake to 66 percent where 55 percent is allowed.
- E. The dwelling is about 200 feet from the shoreline.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Zoning Ordinance 62 requires a 15 foot principal structure setback in a SMU-11 zone district.
 2. Zoning Ordinance 62 states that structure width facing the lake shall not exceed 55 percent of the lot width when located at a conforming shoreline setback.
 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. Objective LU-3.1 of the Comprehensive Land Use 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.

B. Practical Difficulty:

1. The existing dwelling conforms to the required property line setback of 15 feet.
2. The parcel is approximately 87 feet wide at the building site; a structure 48 feet wide would be allowed.
3. There are alternatives that would not require a variance:
 - a. Alternative: the garage and screen porch additions could be shifted or reduced in size to meet the required setback.
 - b. Alternative: the applicant could construct a detached garage at the proposed 10 foot setback.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area.
2. The parcel was granted a variance in 1974 from minimum lot width in a W-3 (SMU-11) zone district. The 1974 variance does not indicate the reasoning or approval criteria.

D. Other Factor:

1. 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.

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 additions to a principal structure at a reduced property line setback and to exceed 55 percent lot width facing the lake, the following condition shall apply:

1. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.

Gary Drilling, the applicant, stated the reason for the garage location is so they do not have to walk down stairs and across a yard in the winter. If they shifted the structure another five feet, it would make backing out vehicles difficult. He currently backs out onto the neighboring property. Their driveway turns into the neighboring resort property. They are willing to decrease the size of the screen porch to 10 foot by 14 foot; it would meet the property line setback requirements but would still exceed the structure width facing the lake. There is a tree buffer down by the lake.

Stephen Erickson stated that to keep the structure width facing the lake at 55 percent, the size of the screen porch would need to be 4 feet wide.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. If the original variance was granted for the lot because of the lot size. The lot is only 87 feet wide.
- B. The intent of the lot width requirement was to prevent the lake view of a wide structure with no screening.
- C. Inquired about nonconforming lots.

DECISION

Motion by Skraba/Pollock to approve a variance request to allow additions to a principal structure at a reduced property line setback and to exceed 55 percent lot width facing the lake, 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. The development is located far enough from the lake to limit lake views of the structure.
- 3. The dwelling exceeds shoreline setback minimum being located 200 feet from the lake.

B. Practical Difficulty:

- 1. The parcel is approximately 87 feet wide at the building site; a structure 48 feet wide would be allowed.
- 2. The dwelling is located about 200 feet from the lake and the additions will not impede anyone's view.
- 3. The additions will give the applicants' reasonable accommodation in their senior years.

C. Essential Character of the Locality:

- 1. The applicant is not proposing a new use to the area.
- 2. The parcel was granted a variance in 1974 from minimum lot width in a W-3 (SMU-11) zone district. The 1974 variance does not indicate the reasoning or approval criteria.

D. Other Factor:

- 1. There are driveways located on both sides of the structure that will limit the buildable area.

In Favor: McKenzie, Pineo, Pollock, Skraba, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Case 6193 – John Almeida

The seventh hearing item was for John Almeida, property located in S27, T62N, R14W (Eagles Nest). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a principal structure to be replaced at a reduced shoreline setback. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to allow a principal structure to be replaced at a reduced shoreline setback.
- B. The applicant is proposing to remove an existing 38 foot by 26 foot dwelling located 42 feet from the shoreline and replace it with a 48 foot by 28 foot dwelling located 50 feet from the shoreline where 100 feet is required.
- C. The landowners were granted a performance standard permit for a replacement dwelling located at a maximized setback from the shoreline. The landowners would have had to relocate their SSTS using the performance standard permit. A site sketch that had been submitted to staff showed the new location and the relocated SSTS.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Eagles Nest Lake 3 is a Recreation Development lake and requires a 100 foot shoreline setback. The applicant is requesting a 50 foot shoreline setback. The lot is approximately 135 feet deep at the building site.
 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 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.
- B. Practical Difficulty:
 1. The property owners were issued a performance standard permit for replacement of the existing dwelling at a maximized setback from the shoreline issued on February 7th, 2019.
 2. There are alternatives that do not require a variance:
 - a. Alternative: a 200 square foot addition would be allowed to the existing structure through a performance standard permit.
 - b. Alternative: Construction could have commenced immediately under the performance standard permit issued on February 7th, 2019.
 - c. Alternative: the existing septic tank could be relocated on the parcel.
- C. Essential Character of the Locality:
 1. The applicant is not proposing a new use to the area. The plat was created in 1925, many of the lots in this area lack the depth needed to conform to shoreline and road centerline setbacks.
 2. A variance was granted on a parcel approximately 300 feet to the west, in 2012, to allow a sauna to be replaced at a reduced centerline and road right-of-way setbacks, due to the replacement maximizing all setbacks to the greatest extent possible and due to lot depth.

D. Other Factor:

1. The property owners were issued a performance standard permit in February of 2019 to replace the existing structure. However, that proposal required the septic tank to be relocated. The applicant is pursuing a variance due to the financial cost of moving the septic tank. (Attached sketch 'C' shows septic tank being moved for the performance standard permit.)
2. 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.
3. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.ii states: "Economic considerations alone shall not constitute practical difficulties if a reasonable use for the property exists under the terms of this ordinance."

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 a principal structure to be replaced at a reduced shoreline 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.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. The structure setback from the lake shall be maximized to the greatest extent possible.

John Almeida, the applicant and the landowners' contractor, stated that it would cost between \$40,000 and \$50,000 to move the septic tank which would exceed their budget. There are mechanicals from the septic tank already located on the foundation. The intent is to keep a part of the foundation to use for the new structure. This will also reduce the amount of construction in the area. The landowners originally applied for the replacement dwelling permit, but it would require they move the septic tank and the structure would need to meet a 70 foot shoreline setback. They would have had to remove substantial vegetation. They are also going to remove a number of other structures. The variance approval is the only option that would not kill their budget. The 50 foot setback was a number that he put on the application just to have a setback distance. The actual setback will be about 58 feet from the shoreline. That way the dwelling can be 20 feet from the septic tank.

No audience members spoke.

The *Board of Adjustment* inquired when the SSTS was installed. It was determined that the septic permit was issued in 2012.

DECISION

Motion by McKenzie/Skraba to approve a variance request to allow a principal structure to be replaced at a reduced shoreline setback of 50 feet where 100 feet is required, based on the following facts and findings:

A. Official Controls:

1. The lot is 135 feet deep at the building site.
2. The variance will minimize the nonconformity due to the size of the small lot.
3. The variance may increase the value of the property.

B. Practical Difficulty:

1. Existing development limits where a new structure can be placed which is dictated by the proximity of Walsh Road.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The plat was created in 1925, many of the lots in this area lack the depth needed to conform to shoreline and road centerline setbacks.

D. Other Factor:

1. Removal of vegetation may not be necessary.
2. Other older construction will be removed.

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.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. The structure setback from the lake shall be maximized to the greatest extent possible but shall be no closer than 50 feet.
5. Demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

In Favor: McKenzie, Pineo, Pollock, Skraba, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Motion to adjourn by Pineo. The meeting was adjourned at 3:37 p.m.