

# Case 6254

# Variance Request

4776 Breezy Point Road, Duluth, MN 55803

Steve Wedan

6/10/2021

# Criteria for Granting a Variance

Minnesota Statute 394.27, subd. 7 defines the criteria for granting a Use Variance:

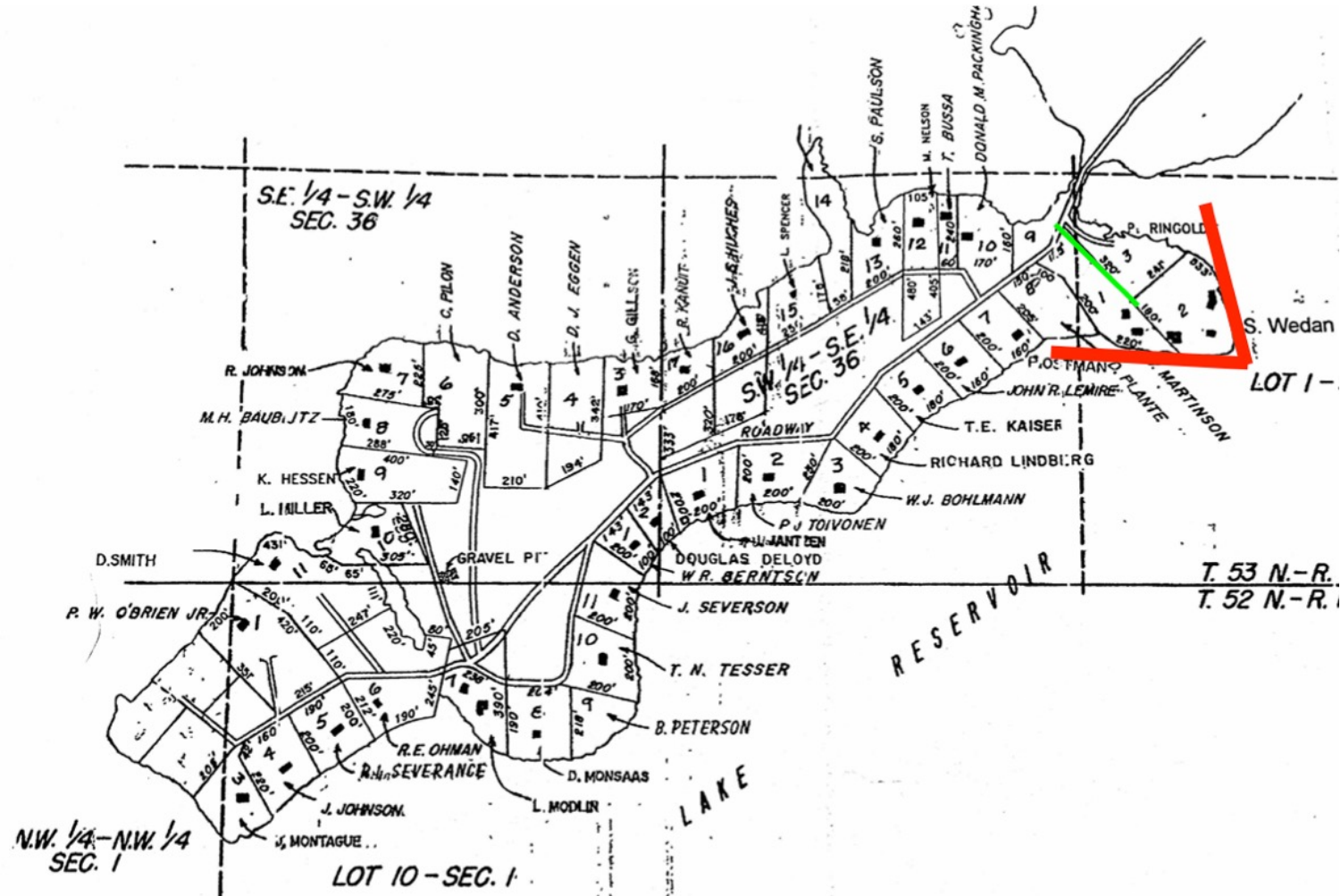
- Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control
- Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan

# Practical Difficulties

- The plight of the landowner is due to circumstances unique to the property and not created by the landowner
- The property owner proposes to use the property in a reasonable manner not permitted by an official control
- The variance, if granted, will not alter the essential character of the locality

# Unique Circumstances – geography and location

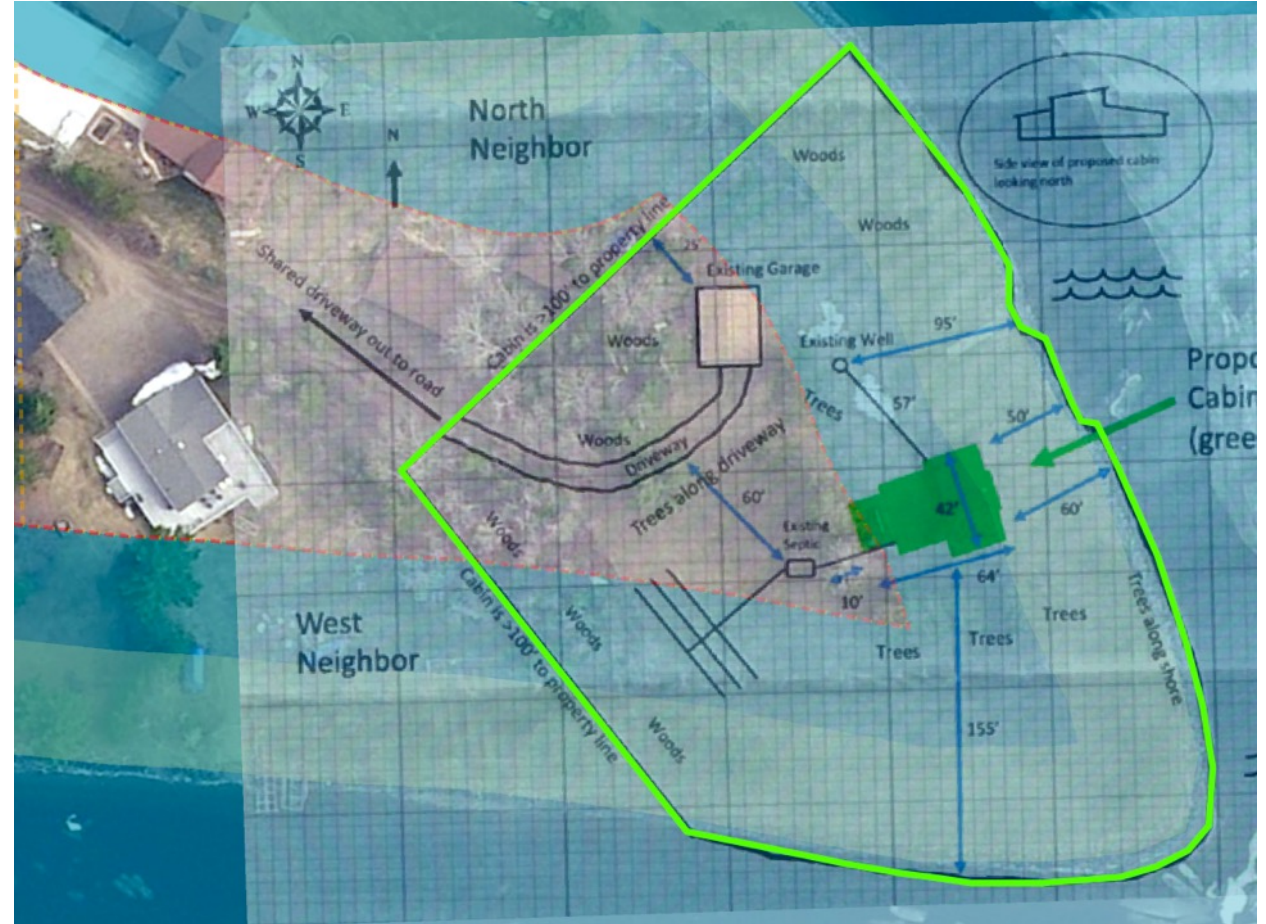
- 42 lots on distal section of Breezy Point
- Property is the only lot where shoreline scribes an acute angle that uniquely squeezes the area on the lot that is compliant with the 100 foot setback control (see red lines)
- Property is the only lot that does not have direct access to a road (see green line) which further restricts the possible location of a dwelling



# Unique Circumstances – geography and location

The uniqueness of the geography and location of the lot are well illustrated in the Staff Report

- Unique wedge shape area formed by required setbacks
- Unique driveway allows for no other location option





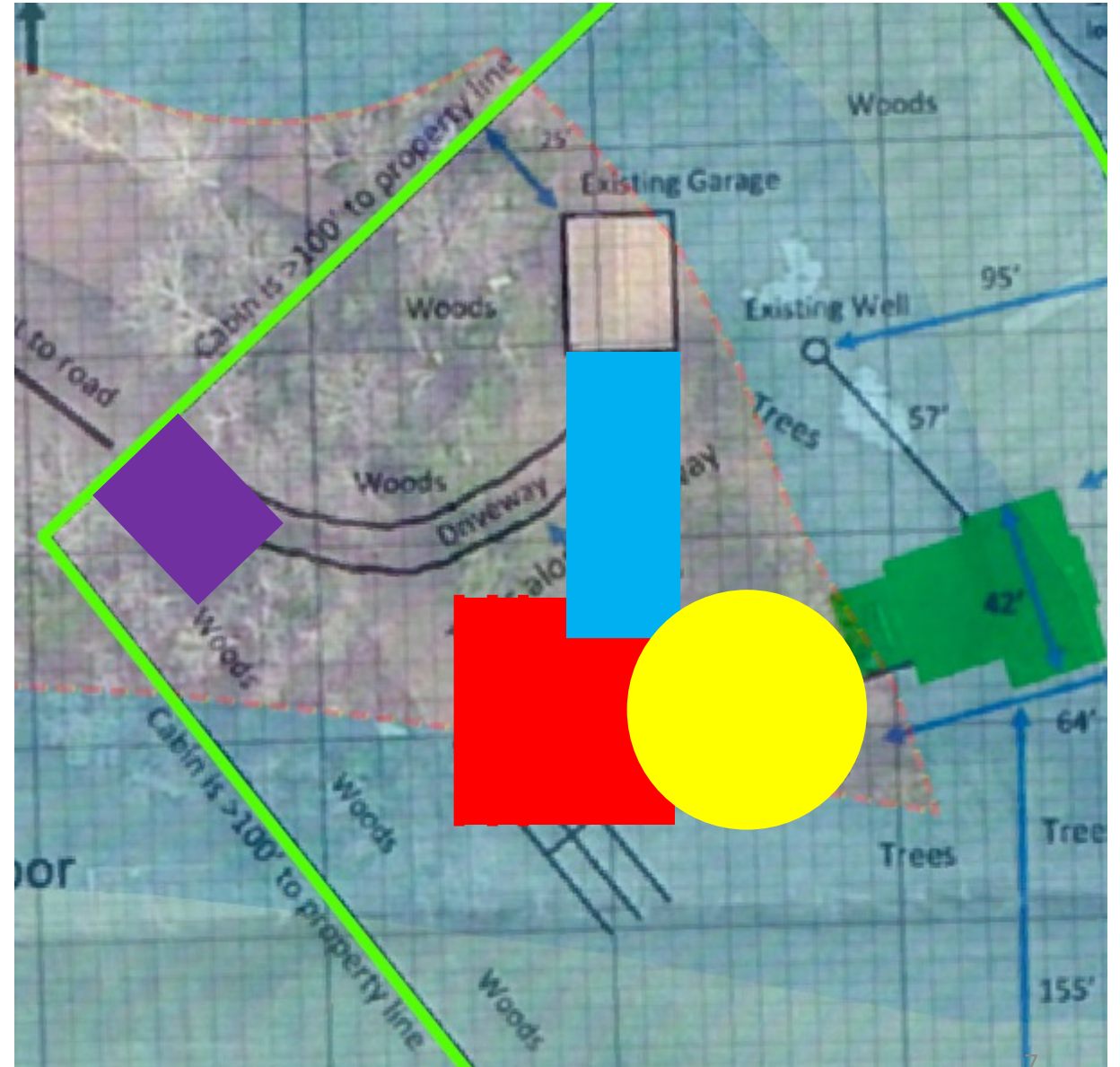
# Unique Circumstances – pre-existing infrastructure

- Red is corrected septic system leach field per Crosby Inspection, Design and Consulting
- Yellow is 10 foot radius around septic tank (required by code)
- Blue is area in front of garage door (twice as long as garage) reasonable for putting boat in and out of garage
- Purple is only location driveway can enter lot



# Unique Circumstances – pre-existing infrastructure

- The only place to build a dwelling that is permitted by the official control is in the woods along the lot line
- Clearing the woods for a dwelling would be outside the essential character of the locality and would have a significant negative impact on the north neighbor



# Unique Circumstances - Summary

- Ours is the only lot where its shape limits the permitted area for a dwelling to a wedge, dramatically reducing the options for locating a dwelling
- Ours is the only lot that limits the driveway's access point
- The lot has pre-existing infrastructure that reduces the available area to near zero, unless a wooded area is cleared in conflict with the essential character of the locality, and negatively impacting a neighbor



- The use we are proposing is to build a year-round dwelling to replace the existing seasonal dwelling
- This is a reasonable use

# Essential Character

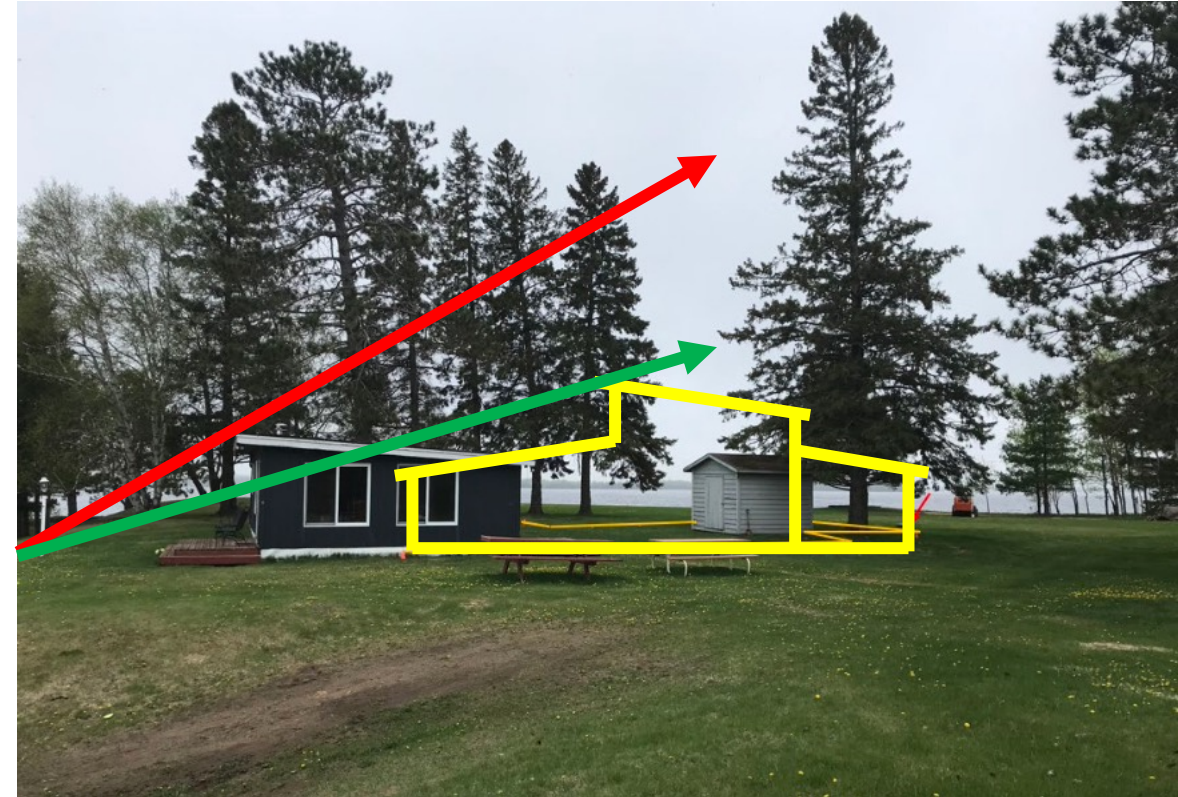
- As seen in the satellite photo, the proposed dwelling (yellow) is appropriately sized for the area which, as stated in the Staff Report, consists of seasonal and year-round dwellings
- The proposed dwelling will not alter the essential character of the locality



# Harmony with the General Purposes and Intent of the Official Control

- The official control (100-foot setback from shoreline)
  - Protects the shoreline
  - Preserves the nature of the lake
- The proposal places the new dwelling essentially in the same location as the existing dwelling, but importantly:

- Moves as far away from the shoreline as possible before violating the 10-foot required distance from the existing septic tank
- Slants the roof opposite to the exiting dwelling for the section closest to the water, such that it diminishes the dwelling's profile as seen from the lake
- Adds a second level only on the section behind the section closet to the water, such that it also does not contribute to a monolithic profile as seen from the lake



*Architecture and location create a lower profile for the proposed dwelling (green arrow) compared to existing dwelling (red arrow), even though the proposed dwelling is taller.*

# Consistency with the Comprehensive Plan

Looking to Conditions section of Staff Report for insight into the comprehensive plan.

We address the four conditions laid out there, which we think will establish consistency with the comprehensive plan.



## Condition 1 - Setback

*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.*

### Plan:

- We will start at the 10-foot mark from the septic tank and work toward the lake, ensuring that no part of the dwelling is closer than 50 feet
- Noting that one corner of the proposed dwelling is 50 feet from the shoreline and the other is 60 feet from the shoreline, we can rotate the dwelling such that the dwelling will be more like 55 feet from the shoreline

## Condition 2 - Color

*The structure shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.*

Plan:

- We commit to doing this (it was already our plan)

## Condition 3 – Runoff

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

Plan:

- Yes, the proposed structure will comply

## Condition 4 – Enhance Vegetation

*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 within two years from the issuance of a land use permit.*

Plan:

- This is also a good idea. We just repaired the riprap on the shoreline, and this is a good time to implement a plan.
- A proposed plan is on the following slide



# Enhanced Vegetation Plan



This area to be enhanced with vegetation

Two new trees to be planed in front of structure

These areas to be enhanced with vegetation

# Summary

## Requirements for Granting a Variance

*Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control.*

*Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan.*

## Fulfilment of Requirements for this Proposal

**The practical difficulties criteria are all met with this proposal.**

**Harmony with the general purpose and intent, in addition to consistency with the comprehensive plan are both satisfied with this proposal, when additionally complying with the conditions set forth in the Staff Report.**

Thank you