

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY THURSDAY, FEBRUARY 11, 2021.

11:20 AM – 12:30 PM

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

Board of Adjustment members absent: Sonya Pineo

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

ELECTION OF OFFICERS

Motion by Skraba/Pollock to elect Diana Werschay as Chair.

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

Opposed: None – 0

Motion by McKenzie/Svatos to elect Roger Skraba as Vice-Chair.

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

Opposed: None – 0

NEW BUSINESS:

- A. Scott Newman, S21, T62N, R12W (Unorganized)
- B. Susan Greene, S33, T63N, R16W (Greenwood)

OTHER BUSINESS:

Motion by Skraba/McKenzie to approve the minutes of the December 10, 2020 meeting.

In Favor: Filipovich, McKenzie, Pollock, Skraba, Svatos, Werschay – 6

Opposed: None – 0

Motion carried 6-0

NEW BUSINESS:

Case 6241 – Scott Newman

The first hearing item was for Scott Newman, property located in S21, T62N, R12W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, to allow the expansion of an existing principal structure where no expansion is allowed. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a 238 square foot addition to the side of an existing structure that was approved by variance in 1985 at a reduced shoreline setback.
- B. No expansion is allowed because the structure was constructed after setback requirements were established.
- C. The proposed addition will not increase the nonconformity.
- D. The proposed addition will be located on a level building area. The rest of the property has a steep 30 percent slope to the lake.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article IV Section 4.3 allows a nonconforming structure to be expanded once if no additions have been added to the principal structure since the implementation date of the appropriate setback standards and the original structure existed before setback requirements were established. The existing cabin was approved by variance in 1985 after setback requirements were established.
- 2. 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.
- 3. Objective LU-3.3 of the St. Louis County 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 has no alternatives to expand the structure that would meet ordinance requirements. This includes what is allowed under a performance standard permit.
- 2. The size of the addition falls under what would 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 as there are other residential properties.
- 2. There have not been any similar variance requests in this plat.
- 3. The property is bordered to the east by federal land.

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 238 square foot addition to the side of an existing principal structure that does not meet shoreline setback, the following conditions shall apply:

- 1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
- 2. The shore impact zone shall be preserved in a natural state and screening shall be retained.
- 3. Stormwater runoff from the proposed structure shall not directly discharge into the lake.

Scott Newman, the applicant, stated they want to add a porch to their cabin to sit outside at night. He has left the property natural and wants to keep it natural. With their large family they could use the additional space.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Filipovich* asked how old the house is. *Mark Lindhorst* stated that the variance granted in 1985 was for the house, which was built afterwards. The structure was built after setback requirements were established.
- B. Board member *McKenzie* asked if the addition would have a regular foundation. *Scott Newman* stated he would use footings. They would also get a land use permit to redo the deck to make it safer. The deck would be further from the lake than it currently is.
- C. Board member *McKenzie* asked how many trees would need to be removed to build the addition? *Scott Newman* stated only one would need to be removed. They have left the other trees on the property.

DECISION

Motion by McKenzie/Skraba to approve a variance to allow a 238 square foot addition to the side of an existing principal structure that does not meet shoreline setback, based on the following facts and findings:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 allows a nonconforming structure to be expanded once if no additions have been added to the principal structure since the implementation date of the appropriate setback standards and the original structure existed before setback requirements were established. The existing cabin was approved by variance in 1985 after setback requirements were established.
- 2. 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.
- 3. Objective LU-3.3 of the St. Louis County 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.
- 4. The variance request is in harmony with the general purpose and intent of official controls. This works to promote reasonable use of the property.

B. Practical Difficulty:

- 1. The applicant has no alternatives to expand the structure that would meet ordinance requirements. This includes what is allowed under a performance standard permit.
- 2. The size of the addition falls under what would be allowed with a performance standard permit.
- 3. The applicant proposes to use this property in a reasonable manner.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area as there are other residential properties in area.
2. There have not been any similar variance requests in this plat.
3. The property is bordered to the east by federal land.
4. The project is a minimal expansion to a structure allowed by variance in 1985.

D. Other Factor:

1. The cabin is well-screened from the only neighbor and from the lakeshore.
2. There has been no correspondence received from affected neighboring properties.
3. There are no neighbors located to the north or to the east. The property to the east consists of hundreds of acres of federal property.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The shore impact zone shall be preserved in a natural state and screening shall be retained.
3. Stormwater runoff from the proposed structure shall not directly discharge into the lake.

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

Opposed: None - 0

Motion carried 6-0

Case 6242 – Susan Greene

The second hearing item was for Susan Greene, property located in S33, T63N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.2, to allow a second principal structure on a parcel where only one is allowed. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing a 40 foot by 30 foot second principal structure that will be located 75 feet from the shoreline.
- B. In order to allow a second principal structure on a parcel, the parcel is required to have double the minimum dimensional standards of the zone district where the parcel is located.
- C. The parcel meets the minimum standards of one acre and 150 feet of lot width, but it does not meet the double requirement of two acres.
- D. The parcel is approximately 1.8 acres.

Stephen Erickson reviewed staff facts and findings as follows:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62 states that more than one principal dwelling is allowed per parcel if there is sufficient lot area per structure to equal the zone district minimum dimensions.
2. Zoning is Residential (RES)-9 which requires a minimum of one acre and 150 feet of lot width. The applicant's parcel is approximately 1.8 acres where 2 acres and 300 feet of width are required for a second principal structure.

3. 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. The parcel does not meet the minimum lot area to have a second principal dwelling.
2. There are alternatives that do not require a variance:
 - a. An accessory dwelling up to 700 square feet would be allowed on the parcel.
 - b. The existing dwelling would be allowed up to a 400 square foot addition through a performance standard permit.

C. Essential Character of the Locality:

1. There have been no similar variance requests approved in the area and surrounding plats.
2. The surrounding parcels vary in size from approximately one-half acre to three acres.

D. Other Factors:

1. A second principal structure would be allowed if the applicants parcel was a minimum of two acres in size.
2. There is space on the parcel for the applicant to build a conforming accessory dwelling.
3. A septic permit to construct has been issued on the proposed dwelling.

Stephen Erickson noted two items of correspondence from the applicant, Susan Greene, with further information; and from Calvin Thielbar in opposition of the variance. These items were 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 second principal structure on a parcel where only one is allowed, 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. All SSTS requirements shall be met.

Susan Greene, the applicant, stated they bought this property in 1998. They are planning and hoping to remain independent in a home as they age. The proposed structure was designed with handicap accessibility. They need a single level home with a basement level for heating, storage and one that is accessible to service providers. The current structure would not be adaptable to their needs and they wish to remain independently living on this property. Their daughter would be taking possession of the existing structure. The new structure will likely be painted in the same colors as the existing colors and would likely not be seen from any neighboring properties as the structure would be nestled behind a rise. The structure would otherwise meet all existing setbacks.

Jack Greene, the applicant, stated the jut out on the property belongs to their neighbor and it is part of a vacated road. The property would remain under one ownership and their daughter would be that owner. They have no intention of splitting the property.

One member of the audience spoke.

Ken Klas, 4765 Partridge Drive, stated they are neighbors of the Greenes. He noted that the vacated road had never been built as a road. Their concern is the height of the new structure in case it would block out their view of the sun. He inquired about a runoff plan and asked staff if they knew where the runoff would go.

Jenny Bourbonais, Acting Secretary, stated a stormwater management plan would need to be submitted by the applicants to see what the plans/intentions are for that runoff so that it would not impact the neighbors.

No other audience members spoke.

The Board of Adjustment discussed the following:

- A. Board member *Pollock* asked if the additional square footage of 2/10 acre would allow them to meet the two acre requirement. *Stephen Erickson* stated the applicants are just short of the two acre requirement. They meet the lot width requirement.
- B. Board member *Pollock* asked the applicants if they would be able to purchase a portion of the vacated road owned by the neighbors in order to gain the additional square footage necessary. *Jack Greene* stated he has talked to their neighbor and they were not interested in selling.
- C. Board member *McKenzie* asked if the applicants had considered a height restriction in their building plans. *Susan Greene* stated they have considered this. *Jenny Bourbonais* noted that the structure would meet shoreline setback.
- D. Board member *McKenzie* asked if a condition could be added to not allow any additions to this structure in the future. *Jenny Bourbonais* stated if the structure meets all other ordinance requirements, it would be allowed additions without needing variances. A condition could be put on this variance so that it would not be larger than requested.

DECISION

Motion by Skraba/Svatos to approve a variance to allow a second principal structure on a parcel where only one is allowed, based on the following facts and findings:

- A. Official Controls:
 - 1. St. Louis County Zoning Ordinance 62 states that more than one principal dwelling is allowed per parcel if there is sufficient lot area per structure to equal the zone district minimum dimensions.
 - 2. Zoning is Residential (RES)-9 which requires a minimum of one acre and 150 feet of lot width. The applicant's parcel is approximately 1.8 acres where 2 acres and 300 feet of width are required for a second principal structure.
 - 3. 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.

4. The variance request is in harmony with the general purpose and intent of official controls. If the applicants owned the vacated platted road, they would have had enough property.

B. Practical Difficulty:

1. The applicants were unable to purchase the vacated road which would have given them enough lot area.

C. Essential Character of the Locality:

1. The variance will not alter the essential character of the locality.
2. The surrounding parcels vary in size from approximately one-half acre to three acres.

D. Other Factors:

1. A septic permit to construct has been issued on the proposed dwelling.
2. Had the vacated road been obtained or purchased by the applicant, they would have had enough land to build two principal structures.
3. The structure would promote the future health and safety of the Greenes.

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. All SSTS requirements shall be met.

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

Opposed: None - 0

Motion carried 6-0

Motion to adjourn by McKenzie. The meeting was adjourned at 12:30 p.m.