

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, MAY 9, 2024.

9:00 AM – 1:56 PM

Board of Adjustment members in attendance: Tom Coombe
Steve Filipovich
Pat McKenzie
Dave Pollock
Diana Werschay, Chair
Andrea Zupancich

Board of Adjustment members absent: Dan Manick

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

NEW BUSINESS:

- A. Steven and Kathy Johnson, S25, T53N, R12W (Alden)
- B. Ian Lewandoski, S19, T51N, R15W (Canosia)
- C. Paul Van Tassel, S4, T62N, R16W (Greenwood)
- D. Ted and Patricia Frase, S36, T51N, R16W (Grand Lake)
- E. Jerrold Vitek, S8, T52N, R18W (Alborn)
- F. Patrick Cramer, S35, T69N, R17W (Unorganized)
- G. Brian Nelson, S25, T62N, R19W (Field)
- H. Daniel Koski, S29, T60N, R21W (French)
- I. YMCA Camp Widjiwagan, S25, T64N, R13W (Unorganized)
- J. Benjamin Spalding, S32, T69N, R19W (Unorganized)

OTHER BUSINESS:

Motion by McKenzie/Pollock to approve the corrected minutes of the April 11, 2024 meeting.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

NEW BUSINESS:

Steven and Kathy Johnson

The first hearing item is for Steven and Kathy Johnson, subject property located in S25, T53N, R12W (Alden). The applicant is requesting relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2 (F), to allow a subsurface sewage treatment system installation at a reduced shoreline setback. *John Otterbein*, St. Louis County Environmental Specialist, reviewed the staff report as follows:

- A. The applicant is proposing to install a new septic tank, as part of a full replacement system, at a reduced shoreline setback of 70 feet where 150 feet on a Trout Stream is required.
- B. There is a principal dwelling, multiple accessory structures which include a detached garage, lean-to style woodshed, barn, workshop, existing septic, and well. The property has good vegetative screening from the shoreline, roadway, and neighboring properties.
- C. The property has a descending slope eastward toward Knife River.
- D. There is a floodplain on the property but will not be impacted by the replacement SSTS.
- E. There appears to be wetland on the property, but it will not be impacted by the replacement SSTS.
- F. The existing septic system is failing.

John Otterbein reviewed staff facts and findings as follows:

- A. Official Controls:
 - 1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards. The required setback for a trout stream is 150 feet. The applicant is proposing to install the tank at a reduced setback of 70 feet.
- B. Practical Difficulty:
 - 1. The location of the principal dwelling, plumbing, and landscape require the replacement septic tank to be installed within the setback.
- C. Essential Character of the Locality:
 - 1. The parcel is located within Alden Township and is listed as Residential (RES)-3.
 - 2. There have been no other similar variances within the surrounding area.

John Otterbein noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2 (F), to allow a septic tank installation at a reduced shoreline setback as proposed include, but are not limited to:

- 1. All other Onsite Wastewater SSTS standards shall be met.
- 2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing a Certificate of Compliance.
- 3. All other local, county, state, and federal regulations shall be met.

The applicant was not present.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked what prompted the variance. *John Otterbein* stated this was self-reported; the current landowners intend to transfer the property to their children in the future and wanted to update the septic.

- B. Board member *Filipovich* asked if there are two parcels involved. *John Otterbein* stated that the applicants have an associated parcel. However, the septic system will be located on the parcel with the dwelling.

DECISION

Motion by McKenzie/Pollock to approve a variance to allow a septic tank installation at a reduced shoreline setback of 70 feet where 150 feet is required for a trout stream, based on the following facts and findings:

A. Official Controls:

1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards. The required setback for a trout stream is 150 feet. The applicant is proposing to install the tank at a reduced setback of 70 feet.
2. Official controls allow for departure from strict enforcement in circumstances not created by the property owner.
3. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The circumstances of the placement of the principal structure, plumbing, and the concerns of the system designer dictate the septic tank replacement setback of 70 feet.
2. The designer, Warren Peterson, stated that the existing site topography, tank burial limitations, drain back limitations and tank safety conditions necessitates the request for the variance of the tank setback.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. While the mound system may or may not be visible from the applicant's driveway, it should be not visible to other properties.
2. Mound systems are fairly unobtrusive and are not a new use to the area.
3. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. While the septic tank may be within the required setback, the actual treatment area will not be.

The following conditions shall apply:

1. All other Onsite Wastewater SSTS standards shall be met.
2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing a Certificate of Compliance.
3. All other local, county, state, and federal regulations shall be met.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Ian Lewandoski

The second hearing item is for Ian Lewandoski, subject property located in S19, T51N, R15W (Canosia). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article II, Section 2.4 F., to allow a principal dwelling width facing the water to exceed 55 percent of the lot width when located outside the shoreline setback, and relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal structure at a reduced property line setback where 15 feet is required. *Paul Butler*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing an 86 foot by 28 foot (2,408 square feet) principal dwelling to be located 12 feet from the south property line and 10 feet from the north property line, where 15 feet is required.
- B. The dwelling will be located 152 feet from Caribou Lake where 75 feet is required.
- C. The width of the proposed principal dwelling facing the lake will exceed the maximum allowed width facing the lake of 27.5 feet (55 percent) by 0.5 feet.

Paul Butler reviewed staff facts and findings as follows:

A. Official Controls:

- 1. The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal structure at a reduced property line setback where 15 feet is required. The applicant is proposing an 86 foot by 28 foot (2,408 square feet) principal structure to be located 12 feet from the south and 10 feet from the north property lines.
- 2. The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article II, Section 2.6 F., to allow a principal dwelling width facing the water to exceed 55 percent of the lot width when located outside the shoreline setback. The width of the proposed principal structure facing the lake is 28 feet which exceeds the maximum allowed width of 27.5 feet (55 percent) by 0.5 feet.
- 3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving the management of nonconformities.
- 4. 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 are protected, and that the overall character of a given area is preserved.
- 5. 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. Caribou Lake Tracts was platted in 1924 prior to the first zoning ordinance in St. Louis County.
 - a. The applicant's parcel, as well as a majority of the parcels in Caribou Lake Tracts, do not conform to current zoning requirements and many contain structures that do not conform to setback requirements.
- 2. There are alternatives that do not require a variance:

- a. The applicant could apply for a land use permit for a structure that meets the 15 foot property line setback and the width requirement without a variance.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. Sunny Lane is developed with many seasonal and year-round residential uses.
2. This area consists of many long and narrow lots with principal structures that do not conform to the required property line setback.

D. Other Factors:

1. The proposed property line setbacks for the dwelling are consistent with the accessory structure property line setback requirement of 10 feet for the Shoreland Multiple Use (SMU)-11 zone district.
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. The proposed principal dwelling will be constructed on an existing building pad which an old principal structure was removed in approximately 2021-2022. There are wetlands near the north property line. The proposed building shall not impact these wetlands.

Paul Butler noted two items of correspondence from neighbors Manny Berg and Bruce Bacon in support of the reduced property line setbacks. These items were provided to the Board of Adjustment prior to the hearing.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow an 86 foot by 28 foot principal dwelling at a reduced property line setback and a principal dwelling width facing the water to exceed 55 percent include, but are not limited to:

1. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
2. St. Louis County Onsite Wastewater SSTS standards shall be followed.

Ian Lewandowski, 3810 Chambersburg Avenue, Duluth, the applicant, thanked the Board for their time and stated this has been a family cabin that goes back for generations. His father-in-law grew up on this property as a child and his wife's grandmother lived here year-round. This means a lot to them. They will submit a land use permit if this variance is approved. They have discussed this project with their neighbors, and both have written letters supporting the setbacks. They are selling their property in the city and will move to the lake as empty nesters. This is his first experience working on this and apologized for the confusion.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board members expressed confusion about what the structure size would be as the staff report reads 1,288 square feet and the application reads 2,072 square feet. Board members were calculating 2,408 square feet. A garage and covered patio are also included. *Paul Butler* stated the garage is already on the site. He calculated the square footage based on the site sketch when he was on site. *Donald Rigney*, Acting Secretary, stated there was not a square footage specific in the legal notice; only the setback distances and structure width facing the lake were specified. Board member *Pollock* stated this variance application should have been rejected because necessary information was not provided. *Donald Rigney* stated the applicant included a first-floor layout and had it printed for the Board of Adjustment to review the design and see the building dimensions.
- B. Board member *Coombe* asked if the structure is 12 feet closer than the 152 foot shoreline setback stated because of the covered patio. *Donald Rigney* stated the structure more than meets the shoreline setback and the applicant will need to submit a land use application if the variance is approved showing the exact shoreline setback. Even if the square footages do not add up, the variance request is for the structure width and property line setbacks which the applicant will need to meet if a variance is granted.

DECISION

Motion by Coombe/McKenzie to approve a variance to allow an 86 foot by 28 foot principal dwelling to be located at a reduced property line setback of 12 feet from the south property line and 10 feet from the north property line where 15 feet is required, and a principal dwelling width facing the water to exceed 55 percent by 0.5 feet, based on the following facts and findings:

A. Official Controls:

- 1. The applicant is requesting property line setbacks of three feet from the south property line and five feet from the north property line along with a 0.5 foot frontage variance. These requests are offset as the new dwelling will have a greater shoreline setback than what is required for Caribou Lake.
- 2. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

- 1. This is a narrow, legal lot of record platted in 1924.
- 2. The applicant proposes to use the property in a very reasonable manner.
- 3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

- 1. The lot was platted in 1924.
- 2. A majority of parcels do not conform to zoning standards. Many parcels contain structures that do not conform to setback standards.
- 3. The applicant is not proposing a new use to the area. Sunny Lane is developed with many seasonal and year-round residential uses.
- 4. The variance request will not alter the essential character of the locality.

D. Other Factors:

- 1. The proposed principal dwelling will be constructed on an existing building pad which an old principal structure was removed in approximately 2021-2022.

2. This is a long, narrow lot with wetlands near the north property line. The proposed building shall not impact these wetlands.

The following conditions shall apply:

1. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
2. St. Louis County Onsite Wastewater SSTS standards shall be followed.
3. Demolition waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Paul Van Tassel

The third hearing item is for Paul Van Tassel, subject property located in S4, T62N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.2 B., to allow a second principal structure on the property where the property does not have sufficient lot area per structure to equal the minimum dimensional standard so the property can be divided at a later date into conforming lots. *Paul Butler*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing a second principal dwelling on a parcel that does not have sufficient area for a principal structure to be placed so that it can be divided at a later date into conforming lots.
- B. The applicant is proposing to add second story living quarters to an existing 26 foot by 16 foot (416 square feet) garage.
- C. The height of the structure will be 20 feet.
- D. The proposal exceeds the standards for an accessory dwelling and therefore is considered a second principal dwelling.
- E. The existing dwelling has minimal screening from the road and adjacent properties.
- F. The property is relatively flat but slopes north towards Lake Vermilion.

Paul Butler reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Zoning Ordinance 62 states that there shall be sufficient lot area per principal structure to equal the minimum dimensional standards and the structures can be placed so the property can be divided at a later date into conforming lots. The current parcel is 250 feet wide and 0.47 acres in size where 300 feet in width and two acres in size is required to allow two principal structures.
 2. Zoning Ordinance 62 allows for an accessory dwelling on parcels less than one acre in size. If the following standards are not met, the structure shall be considered a principal dwelling:
 - a. The maximum size shall be limited to 250 square feet in floor area.
 - b. The maximum height shall be 14 feet.
 - c. The accessory dwelling shall not be combined with a garage or other accessory structure.

3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving the management of nonconformities.
4. 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 are protected, and that the overall character of a given area is preserved.
5. 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. There are alternatives that do not require a variance:
 - a. The applicant could apply for a land use permit for an accessory dwelling that conforms to accessory dwelling standards.
 - b. The applicant may need to remove one or more accessory structures to comply with the maximum building footprint of 3,156 square feet as granted through variance on October 12, 2023.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. Wilson Point Road is developed with many seasonal and year-round residential uses.

D. Other Factors:

1. The proposed dwelling conforms to principal structure setback requirements.
2. The applicant was previously granted a variance on October 12, 2023, to allow an 864 square foot addition with a height of 26 feet to the nonconforming principal dwelling. The variance request also includes relief from the road centerline and right-of-way setbacks and maximum 15 percent lot coverage requirement. The variance allowed a building footprint of 3,156 square feet where 3,070 would be allowed.
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. Zoning Ordinance 62 states that "practical difficulties" as used in connection with granting a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance.

Paul Butler noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a 416 square foot second principal structure include, but are not limited to:

1. All other Zoning Ordinance requirements shall be met.
2. St. Louis County Onsite Wastewater SSTS standards shall be followed.

Paul Van Tassel, 113 3rd Avenue NE, Stewartville, the applicant, thanked the Board for their time. He received a variance in October 2023 for a dwelling addition. Their plan is to move up to the cabin when he and his wife retire. They are trying to minimize the amount of square footage they are adding on. He intends to use the second story garage space as an office space and a “man cave.” There is no way to put water in there. His well is on the other end of the property. He does not intend to put septic in there. He is working on getting his septic system compliant. This will be done before the addition is built. The proposed square footage now is part of the septic design in case a future landowner adds sleeping quarters to the second story. This is a garage right now. He will reduce his garage walls from 11 feet to 8 feet in order to add a small space above for his office.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked what is meant by the applicant needing to remove one or more accessory structures to comply with the maximum building footprint of 3,156 square feet. What size is the applicant at present, and where does the square footage from existing structures come from? *Donald Rigney*, Acting Secretary, stated the applicant has not constructed the addition approved by variance in October 2023. The applicant is currently under the maximum building footprint allowed. If the applicant constructs this addition and then opts to build an accessory dwelling, that may go over the square footage allowed.
- B. Board member *Coombe* asked if the square footage counts if the applicant is adding a second story onto an existing accessory structure and noted the applicant is not building outwards but upwards. *Donald Rigney* stated this is just an alternative noted by staff. Because the variance allowed greater than a 15 percent building coverage, the applicant may need to remove a structure if they opted to build a standalone structure in order to keep it within the 3,156 square feet approved by the October 2023 variance.
- C. Board member *Coombe* asked if the applicant is allowed to have what they are asking for, including water and sewer in an accessory dwelling.
- D. Board member *McKenzie* asked if the applicant is moving forward with what they were approved for in October 2023. *Paul Van Tassel* stated that they are. He let his builder go due to the lack of response. They are waiting until September 1 to start construction on the addition after they enjoy their summer.

DECISION

Motion by Coombe/McKenzie to approve a variance to allow a 416 square foot second principal structure on a property where the property does not have sufficient lot area per structure to equal the minimum dimensional standard so the property can be divided at a later date into conforming lots, based on the following facts and findings:

- A. Official Controls:
 - 1. Zoning Ordinance 62 states that there shall be sufficient lot area per principal structure to equal the minimum dimensional standards and the structures can be placed so the property can be divided at a later date into conforming lots. The current parcel is 250 feet wide and 0.47 acres in size where 300 feet in width and two acres in size is required to allow two principal structures.

2. The applicant's request is the most appropriate use of the lot. The direction of this addition (second story) will protect the environment and will enhance the quality of living for the applicant.
3. This is a legal lot of record that the applicant proposes to use in a very reasonable manner instead of constructing a second accessory structure.
4. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant has a 250 foot wide lot that is shallow at 86 feet on one property line and 120 feet on the other property line.
2. When all setbacks are figured in, the applicant has limited buildable area.
3. The applicant's request is not to build closer to Lake Vermilion or closer to the road but to build a second story on a 26 foot by 16 foot garage, which is a very reasonable request.
4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. This proposal is not a new use to the area. The area is well-developed with seasonal and year-round homes.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. This is a well-thought-out project with no impact on Lake Vermilion. This will be an asset to Greenwood Township and St. Louis County.
2. The garage will have good vegetative tree cover from Lake Vermilion.

The following conditions shall apply:

1. All other Zoning Ordinance requirements shall be met.
2. St. Louis County Onsite Wastewater SSTS standards shall be followed.
3. Demolition waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

In Favor: Coombe, Filipovich, McKenzie, Werschay, Zupancich - 5

Opposed: Pollock - 1

Motion carried 5-1

Ted and Patricia Frase

The fourth hearing item is for Ted and Patricia Frase, subject property located in S36, T51N, R16W (Grand Lake). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.2 B., to allow a second principal structure on the property where the property does not have sufficient lot area per structure to equal the minimum dimensional standard so the property can be divided at a later date into conforming lots. *Ada Tse*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting to construct an approximately 1,760 square foot second principal structure on the property.

- B. The parcel is zoned Residential (RES)-9 which requires one acre per principal structure.
- C. The property is one acre in size with an existing principal structure approximately 1,800 square feet in size.
- D. There is good vegetative cover on the property.
- E. The property slopes down from the road to the shore with an elevation change of approximately 30 feet.

Ada Tse reviewed staff facts and findings as follows:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.2 B., states that there shall be sufficient lot area per structure to equal the dimensional standards required and the structures be placed so that the property can be divided at a later date into conforming lots without variance.
 - a. The property is zoned Residential (RES)-9 which requires one acre and 150 feet in lot width.
 - b. The property is a nonconforming legal lot of record at one acre and 100 feet in width and can only accommodate one principal structure.
- 2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving the management of nonconformities.
- 3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety are protected, and that the overall character of a given area is preserved.
- 4. 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 area consists of many lots that do not meet width requirements.
- 2. The applicant received a variance to construct an addition to the existing nonconforming dwelling.
 - a. Any further living space expansion of the existing dwelling would require variance approval.
- 3. There are alternatives that do not require a variance:
 - a. A separate garage and an accessory dwelling of up to 700 square feet in size may be allowed with land use permits.

C. Essential Character of the Locality:

- 1. The area consists of residential lakeshore lots.
- 2. There has been one approved variance to allow for a second principal structure in the area. In this case, there was sufficient area, but not lot width, to accommodate two principal structures.

D. Other Factors:

- 1. There is a survey of the property with property lines located.

2. The project is within the Pike Lake Area Wastewater Collection System area.
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. Zoning Ordinance 62 states that “practical difficulties” as used in connection with granting a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance.

Ada Tse noted one item of correspondence from Leah Stauber Pattni and Erin Stauber in support of the variance request. This item was provided to the Board of Adjustment prior to the hearing.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a second principal structure where the property does not have sufficient lot area per principal structure as proposed include, but are not limited to:

1. Pike Lake Area Wastewater Collection System standards shall be followed.
2. All local, state, and federal requirements shall be met.

The applicants were not present.

Leah Stauber, 6035 South Pike Lake Road, spoke on behalf of the applicants. The applicant, *Ted Frase*, was unable to attend due to being hospitalized. She is speaking on behalf of her father, who is currently in memory care and can no longer live on the property. She intends to live on the property at some point. She has known the applicants for decades. The Frase’s provided a letter, which was passed out to the Board of Adjustment. Their 39-year-old son has significant physical disabilities which require 24 hours per day/7 days per week nursing care. The son is ventilator dependent on oxygen, has miscellaneous medical equipment, and a wheelchair. He will also require lifting equipment in the future. Their oldest son will eventually move on-site to help with their younger son’s care. The landowners may not be able to do much lifting, especially as Ted Frase recovers from surgery.

One member of the audience spoke.

Adam Frase, 9244 Vinland Street, Duluth, stated he is the applicant’s son. His parents are looking to build a garage with living quarters above for his brother to help them age-in-place. The goal is to keep his brother in the residence for his life. His parents are in their 70s. The dwelling will need a roll-in shower and bathroom, a bedroom large enough to allow for all medical and lifting equipment, a room for nursing staff, living space and a small kitchen and storage for medical supplies. The septic system will be gravity-fed using PLAWCS and there is an existing well on the property for water. His parents will remove the storage shed and the other garage will remain. As the property slopes from the road, the most anyone would be able to see is the top of the garage unit.

No audience members spoke.

Board member *Werschay* asked for confirmation on what the square footage would be. The applicant wrote 1,600 square feet on each level of the structure. *Ada Tse* stated the ideal footprint is 1,600 square feet. In terms of dimensions, the maximum that the structure could be is 1,760 square feet. The structure may be slightly smaller than 1,760 square feet but the request was for the maximum size allowed. The footprint would be 40 feet by 44 feet. Board member *Coombe* stated he appreciates the 1,760 square foot request.

DECISION

Motion by McKenzie/Coombe to approve a variance to allow a 1,760 square foot second principal structure where the property does not have sufficient lot area per principal structure, based on the following facts and findings:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.2 B., states that there shall be sufficient lot area per structure to equal the dimensional standards required and the structures be placed so that the property can be divided at a later date into conforming lots without variance.
 - a. The property is zoned Residential (RES)-9 which requires one acre and 150 feet in lot width.
 - b. The property is a nonconforming legal lot of record at one acre and 100 feet in width and only can accommodate one principal structure.
2. The intent and purpose of St. Louis County Zoning Ordinance 62 beyond the preservation and protection of resources is the goal of protecting the health, safety, and general welfare of the inhabitants of St. Louis County. Permitting this request will further that goal for this applicant's family.
3. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant has a special needs family member. Their needs require additional space and storage for a special vehicle to meet just a few of the difficulties that this family faces.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. Considering Zoning Ordinance 62 requires the essential character of the locality in the context of what regulations existed over 100 years ago when the area was first developed, the applicant's proposal will not change the character of the area. In a modern context, the proposal would likely not change the character of the area since growth in the area appears to be rapid.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The applicant has made reference to the need for space for a specially-equipped van as stated in the staff report, the variance would not be needed for garage space for that purpose alone.
2. There was one item of correspondence received and this was in favor of this request.

The following conditions shall apply:

1. Pike Lake Area Wastewater Collection System standards shall be followed.
2. All local, state, and federal requirements shall be met.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Jerrold Vitek

The fifth hearing item is for Jerrold Vitek, subject property located in S8, T52N, R18W (Alborn). 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; Article IV, Section 4.3 D., to allow a nonconforming principal structure width facing the water to exceed 40 percent of the lot width; and Article IV, Section 4.4 A., to allow for construction on a lot that does not conform to minimum area standards to exceed the maximum allowed building footprint of 15 percent of lot area. *Ada Tse*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to replace a 56 foot by 28 foot dwelling located 88 feet from the shoreline (field measured) where 100 feet is required. The proposed replacement dwelling is 66 feet by 84 feet and is proposed to be located 72 feet from the shore.
- B. The existing dwelling is 56 feet wide, which is 51 percent of the 109 foot lot width. The applicant is proposing an increase of dwelling width to 66 feet which is 61 percent of the 109 foot lot width.
- C. The nonconforming parcel is comprised of two platted lots of 0.44 acres (19,167 square feet) in total size. The applicant is proposing a dwelling of 3,372 square feet. Including two existing sheds, the total proposed building footprint would be 19 percent of the lot area.
- D. There is minimal screening from all sides of the property.
- E. There is a slight slope from the dwelling to the shore with an elevation change of approximately 4 feet.
- F. The parcel is comprised of two platted lots.

Ada Tse reviewed staff facts and findings as follows:

- A. Official Controls:
 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, states that the required shore setback is 100 feet for Recreational Development lakes.
 - a. The existing structure is nonconforming at 88 feet from the shoreline (field measured) and the applicant is proposing to reduce the shoreline setback to 72 feet.
 2. Zoning Ordinance 62, Article IV, Section 4.3, states that the structure width facing the water of a nonconforming principal structure shall not exceed 40 percent of the lot width, if located within the shoreline setback.
 - a. The current dwelling is 56 feet wide, which is 51 percent of the lot width. The proposed dwelling would be 66 feet wide, which is 61 percent of the lot width.
 3. Zoning Ordinance 62, Article IV, Section 4.4 A., states that lots that do not conform to the minimum area standard are allowed a maximum building footprint of 15 percent of lot area.

- a. At 0.44 acres (19,167 square feet), the lot does not meet the one acre requirement of Zone District 7.
 - b. The applicant is proposing a structure of 3,372 square feet, 18 percent of the lot area. Including the existing two sheds, the total building footprint is proposed to be 19 percent.
 4. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
 5. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
 6. 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 plat of Aerie Lake View was created in 1955 with many small and narrow lots.
 2. There are alternatives that exist that do not require or would minimize the degree of variance:
 - a. A smaller dwelling may be allowed at a conforming location with a land use permit.
 - b. A different configuration and size of dwelling may be proposed to maximize setbacks, minimize width, and minimize building footprint.
- C. Essential Character of the Locality:
1. The area consists of year-round and seasonal residential homes.
 2. The area consists of developed lakeshore lots with many nonconforming structures.
 3. The approved variances within Aerie Lake View plat include:
 - a. One to allow for an addition to exceed lot width standards.
 - b. Two to allow for additions at a reduced shoreline setback.
 - c. One recent variance to allow for a replacement dwelling at a reduced shoreline setback.
- D. Other Factors:
1. The existing attached deck was built within the past 12 years without benefit of a permit and does not meet ordinance standards.
 2. The calculated shoreline averaging setback is greater than the required 100 foot shoreline setback.

Ada Tse noted one item of correspondence from Robert Francis in support of the variance request. This item was provided to the Board of Adjustment prior to the hearing.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a replacement dwelling at a reduced shoreline setback, to exceed the maximum allowed lot width, and to exceed the maximum allowed building footprint as proposed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Aerie Lake Sanitary District standards shall be followed.
3. Stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.

Jerrold Vitek, 653 Heinel Drive, Roseville, the applicant, stated he has been gone for 26 years and came back to Minnesota after his parents built the cabin and the deck. When he returned, the deck was rotting and needed to be replaced. He did not get a permit for the deck and should have looked into this more. This dwelling is a double-wide manufactured home, and they are looking to replace the structure. They want to retire at this property. He grew up on this lake and spent weekends and summer vacations here. He wants to live there for as long as he and his wife can. They want to make the structure wheelchair accessible and minimize stairs as they may have trouble with those. They need to widen hallways, which they do not currently have. They want to make the bedrooms and doorways a little larger and add handles. There is no mudroom, laundry room, or mechanical room in the existing cabin. The mechanical room is currently inside a bedroom closet. They do not have a garage on the property. There is a holding tank in the back side of their lot. There is an easement for the holding tank, which limits where they can place their garage.

They pushed the location of the garage back as far as they could. They were able to move the proposed dwelling back a foot because they moved the garage back. They cannot go back any further. They want to convert part of their existing deck into a four-season room. This will make the dwelling more efficient and more usable, especially for year-round use. The sunroom will be 77 feet from the shoreline based on the previous survey by Alta. That will be 10 feet further from the shoreline than the existing deck. A lot of these lots are small and oddly shaped. People were able to purchase properties across the road. They do not own land across the road. There is no land to purchase. They have nowhere to build on this property except on those two lots. He handed out an aerial overview of their property and neighboring properties on the lake. The dwelling will be about 2,500 square feet. This will be a ranch-style home as they do not want steps. Their garage will be attached. This dwelling style will be consistent with other homes in the area.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* stated the deck was built within the past 12 years and does not meet ordinance standards. What is wrong with that deck? *Ada Tse* stated the deck does not meet attached deck standards as the maximum depth allowed for a nonconforming principal structure is 12 feet and this deck is deeper at 16 feet. Board member *Coombe* stated the deck could be brought into compliance if the depth were reduced and the stairs did not face the lake.
- B. Board member *Pollock* stated the proposal shows the deck being enclosed as a sunroom. *Ada Tse* stated the existing deck is closer to the lake. Board member *Pollock* stated the deck is part of the structure and would be in compliance if the variance was granted.

- C. Board member *Coombe* asked if the front of the structure faces southeast. *Jerrold Vitek* stated it does. Board member *Coombe* asked if the applicant would move those steps, so they do not go toward the lake. *Jerrold Vitek* stated his father built the original deck with cement blocks and a crawlspace. This new design will not require steps. The deck steps will no longer be there.
- D. Board member *Coombe* asked what the proposed setback will be from the main structure footprint to the shoreline. *Ada Tse* stated the field measurement was 88 feet.
- E. Board member *Coombe* asked what the setback from the front of the four-season porch would be. *Ada Tse* stated the field measurement was 72 feet.
- F. Board member *Pollock* stated it would be easier if there was no sunroom. That would show understanding of the rules and regulations. This is something that can be done that will make this acceptable. Without removing the sunroom, this proposal is unacceptable. This is a wish list. That does not mean the applicant can get everything on their wish list. Board member *Coombe* noted that there could be a sunroom, but there should be no entrance or exit that was not parallel to the front of the house. He has no issue with this as proposed.

DECISION

Motion by Coombe/McKenzie to approve a variance to allow a 66 foot by 84 foot replacement dwelling located at a reduced shoreline setback of 72 feet where 100 feet is required, to exceed the maximum allowed lot width of 66 feet which is 61 percent of the lot width, and for a building footprint of 19 percent, exceeding the 15 percent maximum building footprint allowed, based on the following facts and findings:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, states that the required shore setback is 100 feet for Recreational Development lakes.
 - a. The existing structure is nonconforming at 88 feet from the shoreline (field measured) and the applicant is proposing to reduce the shoreline setback to 72 feet.
- 2. Zoning Ordinance 62, Article IV, Section 4.3, states that the structure width facing the water of a nonconforming principal structure shall not exceed 40 percent of the lot width, if located within the shoreline setback.
 - a. The current dwelling is 56 feet wide, which is 51 percent of the lot width. The proposed dwelling would be 66 feet wide, which is 61 percent of the lot width.
- 3. Zoning Ordinance 62, Article IV, Section 4.4 A., states that lots that do not conform to the minimum area standard are allowed a maximum building footprint of 15 percent of lot area.
 - a. At 0.44 acres (19,167 square feet), the lot does not meet the one acre requirement of Zone District 7.
 - b. The applicant is proposing a structure of 3,372 square feet, 18 percent of the lot area. Including the existing two sheds, the total building footprint is proposed to be 19 percent.
- 4. The applicant has a legal lot of record that was platted in approximately 1955. This is a small lot that is approximately 94 feet by 119 feet in size with a slight pie shape. The building site is about 109 feet wide. The applicant is requesting to rebuild a structure at approximately 88 feet from the shoreline with a 16 foot by 16 foot

- attached sunroom making the structure 72 feet from the shoreline. This structure will meet other property line setbacks and will not be located in the shore impact zone.
5. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. Per Minnesota Statute 394.27 Sub. 7, “practical difficulties” as used in connection with granting a variance means the property owner proposes to use their property in a reasonable manner not permitted by official controls. The use is just a continuation of past uses but with a larger dwelling on a legal lot of record.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The request is just a continuation of past uses.
2. The applicant is not proposing a new use to the area. The area consists of year-round and seasonal residential homes.
3. Many of the lots have nonconforming structures due to small lot sizes and previous setbacks.
4. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. This dwelling will be hooked into the Aerie Lake Sanitary District system.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Aerie Lake Sanitary District standards shall be followed.
3. Stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
4. Any access to the four-season porch shall not extend toward the lake.

In Favor: Coombe, Filipovich, McKenzie, Werschay, Zupancich - 5

Opposed: Pollock - 1

Motion carried 5-1

Patrick Cramer

The sixth hearing item is for Patrick Cramer, subject property located in S35, T69N, R17W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., to allow an addition to a principal dwelling located between the shore impact zone and the required setback that will exceed the 400 square feet allowed. *LaShawn Rush*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting to construct an addition to a nonconforming principal dwelling located 85 feet from the shoreline of Sand Point Lake where 100 feet is required.
- B. The addition will be to the rear of the existing structure, totaling 770 square feet.
- C. The proposed height will be 17 feet.
- D. There is adequate vegetative screening from neighboring properties and from the shoreline.

- E. The north side of the island is bluff, while the areas to the south may only be considered steep slope. The proposal will not be affected.
- F. The parcel is located within the floodplain. The proposal will not be affected.
- G. This parcel is water access only.

LaShawn Rush reviewed staff facts and findings as follows:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., allows a maximum addition of 400 square feet to a nonconforming principal structure located between the shore impact zone and required setback.
 - a. The existing dwelling is located 85 feet from the shoreline and the applicant is requesting an addition totaling 770 square feet to the rear.
- 2. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, requires a shoreline setback of 100 feet from Recreational Development lakes.
 - a. The current dwelling has a shoreline setback of 85 feet where 100 feet is required.
 - b. The proposed additions will not increase the current shoreline nonconformity.
- 3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
- 4. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
- 5. 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. A variance is not the only option as there is a conforming area for a new accessory dwelling to be placed.
 - a. An accessory dwelling of up to 700 square feet may be allowed with an approved land use permit.
- 2. Reducing the size and configuration of the structure could eliminate the request for a variance.
 - a. An addition of 400 square feet may be allowed with an approved performance standard permit.

C. Essential Character of the Locality:

- 1. The neighborhood consists of developed and undeveloped islands.
- 2. The applicant is not proposing a new use to the area.
- 3. There have been no similar variance requests in the area.

D. Other Factors:

- 1. The applicant is currently working with Crane Lake Water and Sanitary District and St. Louis County Onsite Wastewater Division to obtain a septic permit.

2. If the variance is approved, the applicant will need to obtain the appropriate septic permit before the issuance of a land use permit.
3. The applicant spoke to the Land Use team regarding alternatives to avoid a variance request and chose to move forward with the variance request.
4. 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.
5. Zoning Ordinance 62 states that “practical difficulties” as used in connection with granting a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance.

LaShawn Rush noted one item of correspondence from Mark Maddison in support of the variance request. This item was provided to the Board of Adjustment prior to the hearing.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance for an addition to a principal dwelling located between the shore impact zone and the required setback to exceed the allowed 400 square feet as proposed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not discharge directly into the lake.
3. Crane Lake Water and Sanitary District and St. Louis County Onsite Wastewater septic standards shall be followed.

Patrick Cramer, 3277 166th Lane NW, Andover, the applicant, stated he is concerned about the maximum square footage allowed for an addition. This is an island property that has never had power or water. There are two rooms in an L-shape. They will install an off-grid solar array and use a lake water pump system with ultraviolet (UV) lighting and do the septic through Crane Lake. They want to live on this property for the summer. They want to add a kitchen, bathroom, laundry room, entry, mechanical room, etc. and the 400 square feet allowed would not give them enough space. They currently have a 624 square foot dwelling. They will store their solar batteries and other equipment in the mechanical room. If this is a summer cabin, he cannot leave his batteries on the island, and they will need to be accessible. There was an idea to make a separate 700 square foot structure. There would be one for sleeping and one for the kitchen. His wife cannot take steps and could have issues with moving between two structures. They want a little extra space for a refrigerator and any additional storage they may need. If the original structure was larger, they might have been able to work with a 400 square foot addition. To start with something just over 600 square feet, they need more space.

One audience member spoke.

Josh Wentz, Chief Ranger, Voyageur’s National Park, stated they reviewed the packet and found no issues with the proposal. They know there is an existing structure, and the applicant is adding an addition. If this was a new structure, they may have more concerns. The applicant should use

earth-tone colors and the area is very dense with forest. If the variance is granted, construction timelines should be cognizant of endangered species, including the long-eared bat.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if the existing screen porch was taken into consideration. *LaShawn Rush* stated the screen porch was taken into consideration and was permitted in 2006.
- B. Board member *Zupancich* asked if there is a heat source. *Patrick Cramer* stated that they have a wood stove that will be removed. There is a propane tank on the property with one propane light in the L-shaped room.

DECISION

Motion by McKenzie/Pollock to approve a variance to allow a 770 square foot addition to a principal dwelling located between the shore impact zone and the required setback to exceed the allowed 400 square feet, based on the following facts and findings:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., allows a maximum addition of 400 square feet to a nonconforming principal structure located between the shore impact zone and required setback.
 - a. The existing dwelling is located 85 feet from the shoreline and the applicant is requesting an addition totaling 770 square feet to the rear.
2. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, requires a shoreline setback of 100 feet from Recreational Development lakes.
 - a. The current dwelling has a shoreline setback of 85 feet where 100 feet is required.
 - b. The proposed additions will not increase the current shoreline nonconformity.
3. It is the goal of Zoning Ordinance 62 to not only protect and preserve the lake and similar spaces within St. Louis County but to also promote the health, safety, and general welfare of the inhabitants.
4. The applicant seeks to expand their dwelling to be more habitable, especially since there is no access to the mainland.
5. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant's current structure is 624 square feet with no indoor plumbing or electricity. The applicant wishes to expand the cabin to allow space for a bathroom and kitchen after the plumbing and septic system have been installed, both of which would allow for reasonable use of the cabin. Additional space is needed for the HVAC system and the off-grid system.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. There are a number of occupied and unoccupied islands.
2. The applicant's proposed expansion will not be visible to passersby.

3. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The applicant's proposed expansion will not decrease the shoreline setback.
2. The applicant's proposal is not a new use to the area.
3. The applicant is working to obtain a septic permit.
4. One item of favorable correspondence was received in this matter. Voyageur's National Park spoke during the hearing and had no concerns.

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 discharge directly into the lake.
3. Crane Lake Water and Sanitary District and St. Louis County Onsite Wastewater septic standards shall be followed.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Brian Nelson

The seventh hearing item is for Brian Nelson, subject property located in S25, T62N, R19W (Field). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a lot that does not conform to the zoning district dimensional standards to be permitted as buildable. Board member *McKenzie* stated he knows both the applicant and his wife and has opted to refrain from participating in the hearing and will vote to abstain. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a nonconforming parcel be permitted as buildable for residential development that will meet all other ordinance requirements.
- B. The parcel was created in 2012 as part of land transfer to the City of Cook for additional buffer as part of the Cook Airport zones.
- C. The parcel is 2.65 acres and has approximately 115 feet of shoreline width.
- D. The parcel is zoned Forest Agriculture Management (FAM)-2, which requires a minimum lot size of 17 acres and 600 feet of lot width.
- E. The parcel is undeveloped and consists of field grass, bush and tree growth along the shoreline.
- F. The parcel is relatively level with a slight two percent grade towards the river.
- G. The property contains a floodplain. Any development would have to meet floodplain requirements.
- H. The applicant has provided a site sketch indicating a proposed 1,200 square foot dwelling and 576 square foot garage meeting all setback requirements. No septic information has been provided.

Mark Lindhorst reviewed staff facts and findings as follows:

- A. Official Controls:

1. Zoning Ordinance 62, Article III, Section 3.2, states the minimum lot size for a parcel zoned Forest Agriculture Management (FAM)-2 is 17 acres and 600 feet of lot width. The existing parcel is 2.65 acres and 115 feet of lot width.
2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 of the St. Louis County Comprehensive 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 parcel was created as part of a land transfer for the City of Cook airport.
2. Unless the parcel can be combined with an adjacent parcel, no alternatives exist for the parcel to be considered a lot suitable for development.

C. Essential Character of the Locality:

1. The area consists of large parcels of land. There is one residential dwelling within 500 feet and the City of Cook Airport is located across Ralph Road.

D. Other Factors:

1. The property contains floodplain which may limit buildable area on the parcel.
2. The county requested that a septic suitability report be submitted to determine if the property could support residential development and meet ordinance requirements for parcels created after February 22, 1979, per Ordinance 61, Article IV, Section 4.4. The applicant chose to move forward without providing the information.
3. The property is located in Zone C of the Cook Municipal Airport zone which allows for residential development.

Mark Lindhorst noted two items of correspondence from Dean Haupt not in support and from Theresa Martinson, City of Cook Administrator, with no issue. These items were provided to the Board of Adjustment prior to the hearing.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a 2.65 acre parcel with 115 feet of lot width as buildable include, but are not limited to:

1. St. Louis County Onsite Wastewater SSTS standards shall be followed.
2. The shore impact zone shall be preserved in a natural state and screening shall be retained.

Brian Nelson, 801 5th Avenue NE, Chisholm, the applicant, stated the reason he did not look into septic suitability was financial. If he does not get approved for a variance, he does not want to keep throwing money out the window. If this variance gets approved and he applies for a septic and gets told "no," the process is null and void.

One audience member spoke.

Julia Maki, 4722 Saranpa Road, Embarrass, stated she did pull up soil survey maps for the state of Minnesota. Most of this lot is silty sand. St. Louis County's new floodplain maps were approved in March 2024. Most of this lot is outside of the floodplain. She is friendly with the *Nelsons*, and they do not know what they want to put on the property yet. There may be a recreational vehicle (RV) on the property. There may or may not be a septic system on the property. There may be a small garage or shed that does not require a septic. Anything that they build they will need this information to get the permits. The Board could table this hearing if the septic issue is a dealbreaker. It is hard to get a septic evaluation on a site that cannot have a septic on it. The lot is not suitable yet. It would be a 400 dollar expense for the applicants to have a septic designer walk the property.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if something was to be permitted as buildable, does the applicant not need to show that the property can support a septic? *Mark Lindhorst* stated staff asked the applicant for this information. Any information provided to the Board of Adjustment will help them make their variance decision. Board member *Pollock* stated this was requested to show the property is buildable. If this property is not suitable for septic, why should this be done? The applicants are asking the Board to change the rules and regulations by approving a variance. If the Board approved a variance and the applicant is unable to put a septic on this property, they could not have a house. Board member *Zupancich* added the applicant could still build a garage.
- B. *Mark Lindhorst* stated the maps brought up by *Julia Maki* have not been approved by St. Louis County. The county is still waiting to get updated maps. Staff go by the base flood elevation (BFE) of the property. *Julia Maki* stated these maps were on the Federal Emergency Management Agency (FEMA) website and they have been out for public comment period and local government units (LGUs) should have been approved by March 2024.
- C. Board member *Pollock* stated 400 dollars is not an economic consideration based on how much money has already gone into this variance process.
- D. Board member *Pollock* asked if there is any potential litigation on the property that would be impacted by or cause an impact to a variance decision. *Mark Lindhorst* stated this is a civil issue and has nothing to do with the variance. Board member *Werschay* stated this property was subdivided by the city of Cook. If they were to consider making this lot buildable, they could also say if there is no septic suitability, there is no buildable lot.
- E. Board member *Coombe* asked if there is a minimum of three acre parcel required to build within Airport Zones A, B, or C. *Mark Lindhorst* stated the three acre parcel is part of Airport Zone B. As long as the applicant is not putting up a cell tower, they would be allowed to build in Airport Zone C. He reached out to the city and received the map that indicated this property was in Zone C. If the property was located in Zone B, there would be no variance.

- F. Board member *Pollock* asked what “The county requested that a septic suitability report be submitted to determine if the property could support residential development and meet ordinance requirements for parcels created after February 22, 1979, per Ordinance 61, Article IV, Section 4.4.” means. *Mark Lindhorst* stated septic suitability means two areas need to be identified on a parcel to show areas that would support a septic system. Board member *Pollock* stated the Board could deny without prejudice in order to require a septic suitability report and make a decision next month. Board member *Coombe* stated the septic suitability report has nothing to do with this.

DECISION

Motion by Coombe/Pollock to approve a variance to allow a 2.65 acre parcel with 115 feet of lot width, based on the following facts and findings:

A. Official Controls:

1. Zoning Ordinance 62, Article III, Section 3.2, states the minimum lot size for a parcel zoned Forest Agriculture Management (FAM)-2 is 17 acres and 600 feet of lot width. The existing parcel is 2.65 acres and 115 feet of lot width.
2. The applicant inherited this parcel of land after Cook Airport was built. This was a leftover piece of property.
3. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. This is all of the land left over from the original land plat that was sold, through eminent domain, to the Cook Municipal Airport. There is no additional land to purchase to make this into a conforming lot.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. This is a raw piece of land. This land could be built on if the applicant meets all setback and septic standards.
2. The variance request will not alter the essential character of the locality.

The following conditions shall apply:

1. St. Louis County Onsite Wastewater SSTS standards shall be followed.
2. The shore impact zone shall be preserved in a natural state and screening shall be retained.

In Favor: Coombe, Pollock, Werschay, Zupancich - 4

Opposed: Filipovich – 1

Abstained: McKenzie - 1

Motion carried 4-1-1

Daniel Koski

The eighth hearing item is for Daniel Koski, subject property located in S29, T60N, R21W (French). The applicant is requesting relief from St. Louis County Ordinance 62, Article III, Section 3.2 to allow an existing storage business to exceed maximum lot coverage and to allow a

principal structure at a reduced property line setback. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing to expand an existing storage business that has been in existence since 1994.
- B. The applicant is proposing to add additional storage buildings that will exceed the maximum lot coverage.
- C. The property is zoned Multiple Use (MU)-4, which requires a maximum lot coverage of 10 percent.
- D. The applicant is proposing 47 percent.
- E. The applicant is also requesting that one of the storage buildings be placed at a reduced property line setback.
- F. The required property line setback for a principal structure is 50 feet. The applicant is requesting 25 feet.
- G. The business has excellent screening from the road.
- H. There are wetlands on the property. The Wetland Conservation Act will need to be followed.

Mark Lindhorst reviewed staff facts and findings as follows:

- A. Official Controls:
 - 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, states the maximum lot coverage in a Multiple Use (MU)-4 zone district is 10 percent; the applicant is proposing 47 percent.
 - 2. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, requires a minimum property line setback of 50 feet for a principal structure; the applicant is proposing 25 feet.
 - 3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
 - 4. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
 - 5. 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. There are no alternatives that exist because the applicant already exceeds the lot coverage for the current approved business. The storage business has been in existence since 1994. The applicant is proposing to expand the business which will increase the impervious surface even more.
 - 2. Proposed structure orientation and size can be adjusted to meet setback requirements reducing the request for variance.
- C. Essential Character of the Locality:
 - 1. The storage business has been in existence since 1994.

2. There are 17 residential properties within the notification area; several of which are located across the road from the proposal.
3. Vegetative screening along the road will be retained.

D. Other Factors:

1. Implementing a stormwater management plan will ensure that no runoff impacts will affect neighboring properties or adjacent wetlands.
2. The applicant has already started construction of the increased impervious area.

Mark Lindhorst noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance for maximum lot coverage of 47 percent and a property line setback of 25 feet as proposed include, but are not limited to:

1. Stormwater management plan shall be submitted, approved by the Director prior to issuance of a land use permit and implemented concurrent with development of each permitted structure.
2. The MN Wetland Conservation Act shall be followed.

Daniel Koski, 6179 Highway 5, Hibbing, the applicant, stated the reason why the lot is cleared is they had a logger remove trees to clean up the property. They took the stumps, piled the brush, and cleaned up the property. As far as turning the building to an east-west orientation, the front of the building would be underneath a power line and part of the tree buffer would need to be removed. He would rather not remove trees in the 50 foot tree buffer. There could be a second entrance to the property with a culvert and he would rather just have one entrance. Turning the structure this way will be a vehicle storage building. People can straighten up and back into the building.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Werschay* asked how close the applicant is to the wetlands. *Mark Lindhorst* stated when he was on site, the fill was to the edge. He is uncertain if the applicant will expand further.
- B. Board member *Pollock* asked what staff meant stating, "Proposed structure orientation and size can be adjusted to meet setback requirements reducing the request for variance." *Mark Lindhorst* stated if the applicant turned one of the structures and reduced its size, it could meet the property line setback. Board member *Pollock* asked if this was brought up to the applicant. *Mark Lindhorst* stated it was.
- C. Board member *Pollock* asked if there is any explanation for allowing this amount of lot coverage on the applicant's property. *Mark Lindhorst* stated it is difficult for any ministorage to meet lot coverage. Trees are removed and there is a driving surface around each building. The applicant would have been over the impervious surface if they applied for a new structure and a variance would have been required. Board member *Pollock* asked if impervious surface is any gravel surface. *Mark Lindhorst* stated impervious surface would be any driving surface. Any area that is vegetated is not impervious surface. Board

member *Pollock* asked if reorienting the one structure would cause less impervious surface. *Mark Lindhorst* stated it could.

- D. Board member *Pollock* stated it is a difficult situation to have 47 percent impervious surface versus the ten percent allowed. *Mark Lindhorst* stated larger parcels would help lot coverage issues when impervious surface is factored in.
- E. Board member *Werschay* asked how far the lake is from this property. *Mark Lindhorst* stated this was not measured. The lake is about 300 feet away from this property and is across the road.
- F. Board member *McKenzie* asked about the 10 foot setback on the western part of the second proposed building. *Mark Lindhorst* stated there is a 50 foot setback from the road. The road right-of-way is also in there. The structure will meet the road setback.
- G. Board member *Pollock* asked if the north, west, and east sides of the top proposed structure could be grassed. *Daniel Koski* stated these areas could be grassed. Board member *Pollock* said these areas would not add to the impervious surface. *Daniel Koski* stated there is 25 feet on the east side of the property is grassed. Board member *Pollock* stated the applicant could take steps to reduce the impervious surface without needing to turn the building. *Daniel Koski* stated he calculated more like 25 percent impervious surface.
- H. Board member *Pollock* stated the applicant has an idea of what the Board is looking for when minimizing impervious surface.

DECISION

Motion by McKenzie/Pollock to approve a variance to allow a maximum lot coverage of 47 percent and a property line setback of 25 feet where 50 feet is required, based on the following facts and findings:

A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, states the maximum lot coverage in a Multiple Use (MU)–4 zone district is 10 percent; the applicant is proposing 47 percent.
- 2. St. Louis County Zoning Ordinance 62, Article III, Section 3.2, requires a minimum property line setback of 50 feet for a principal structure; the applicant is proposing 25 feet.
- 3. Chapter 6 of the St. Louis County Comprehensive Land Use Plan identifies Side Lake as a chain of lakes with a lakeshore development area. These areas are intended for rural development adjacent to the lake, including infill, development, and redevelopment of existing residential, commercial, or mixed-use areas. The LDA categories contain many uses, but storage units are not one of them.
- 4. The Side Lake area was developed many years ago with a seasonal cabin area for Hibbing and Chisholm. Since the 1980s, there has been an increase in year-round homes and expanded the model cabin on parcels too small to provide enough room for storage for the modern-day lake lifestyle that people expect to have.
- 5. The applicant's proposal to increase rental storage space in the area is within the general purpose and intent of official controls.
- 6. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The staff report indicates that no expansion alternatives exist as the applicant's facility already exceeds the lot coverage.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The facility has been in existence since 1994 and is visible from the roadway. However, vegetative screening will be retained. There are no land use regulations in place when the locality was developed years back.
2. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. The storage business has been in existence since 1994, providing critical storage for residents in the area.

The following conditions shall apply:

1. Stormwater management plan shall be submitted, approved by the Director prior to issuance of a land use permit and implemented concurrent with development of each permitted structure.
2. The MN Wetland Conservation Act shall be followed.
3. Impervious surface shall be minimized to the greatest extent possible and shall be minimized by seeding/vegetation.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

YMCA Camp Widjiwagan

The ninth hearing item is for YMCA Camp Widjiwagan, subject property located in S25, T64N, R13W (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 to exceed maximum allowed size of 250 square feet and to exceed maximum allowed height of 12 feet. *Skyler Webb*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval to allow an oversized water oriented accessory structure as a replacement for an existing nonconforming water oriented accessory structure.
- B. The proposed sauna will be 864 square feet where 250 square feet is allowed.
- C. The proposed sauna will replace an existing 504 square foot sauna in the same location.
- D. The applicant is requesting a finished structure height of 16 feet where 12 feet is allowed.
- E. There is good vegetative screening from neighboring properties and from the shoreline.
- F. The parcel has an overall elevation change of 124 feet. There are areas of steep slope and flat areas throughout the property. The proposal will not be affected.
- G. The parcel is located within the floodplain. The proposal will not be affected.
- H. YMCA Camp Widjiwagan also owns the adjoining parcel to the west, containing 163.85 acres.

Skyler Webb reviewed staff facts and findings as follows:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.10 C., states that the maximum allowed size for a water oriented accessory structure is 250 square feet.
 - a. The applicant is proposing the replacement sauna to be 864 square feet.
2. St. Louis County Zoning Ordinance 62, Article VI, Section 6.10 C., states that the maximum allowed height for a water oriented accessory structure is 12 feet.
 - a. The applicant is proposing a finished structure height of 16 feet.
3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
4. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
5. 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. This is a large property that would allow for several water oriented accessory structures that meet water oriented accessory structure standards, and many accessory structures at the 100 foot setback.
 - a. The parcel the applicant is proposing to build the water oriented accessory structure on has over 70 acres and 2,000 feet of shoreline.
 - b. Density would allow for several water oriented accessory structures on this parcel as long as each structure has enough area and shoreline to meet zoning requirements.
2. A variance is not the only option as there are alternatives that would eliminate the need for a variance request:
 - a. The setback of the proposed structure could be increased to 100 feet. If the proposed structure were to meet the 100 foot shoreline setback, it would not be considered a water oriented accessory structure. In this case the size would not be limited to 250 square feet and the height would not be limited to 12 feet.
 - b. A new sauna meeting all water oriented accessory structure standards may be allowed with an approved land use permit.
 - c. A replacement sauna with the same footprint as the existing sauna may be allowed with an approved performance standard permit.
3. The applicant stated that they would prefer to replace the structure at the existing sauna's location rather than clear a conforming area for a new structure and would like an oversized water oriented accessory structure to accommodate the number of guests on the property.

C. Essential Character of the Locality:

1. Much of the area is occupied by YMCA camps.
2. There are also a few privately-owned residential properties in the area.

3. There has been one similar approved variance request for an oversized sauna to be placed at a reduced shoreline setback at the YMCA Camp Du Nord property.

D. Other Factors:

1. The property is surrounded by state-owned land on all sides.
2. YMCA Camp Widjiwagan also owns the adjoining parcel to the west containing 163.85 acres.
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.

Skyler Webb noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a water oriented accessory structure to exceed maximum allowed size and to exceed maximum allowed height as proposed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not discharge directly into the lake or on adjacent lots.
3. All St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. Demolition waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
5. All local, state and federal requirements shall be met.

Matt Poppleton, 3788 North Arm Road, Ely, Executive Direction of Camp Widjiwagan, stated the current sauna has been up since 1968, has served generations of young people as they experience the program. Their camp focuses on wilderness education and outdoor trips for young people 11 to 18 years of age. Their current sauna is providing challenges and they have explored other options to improve upon the overall sauna experience. They have explored different alternatives. One of their key considerations is safety, in which in places along their shoreline the lake is shallow. In order to dip into the four feet of water they want young people to dip into, they want to keep the sauna within 30 feet of the shoreline. The present location of the sauna is the only location to do this at. There is otherwise shoreline topography as well as shallow water where people would need to get out further in order to dip into the water. They can lifeguard and monitor their young guests accordingly. The footprint will also help their capacity. Some youths are scheduled well into the evening, and they would want to make this a safer experience. They also want to address the accessibility for their participants and not be too far from the lake to take a dip after a sauna.

Jacob Cahill, 3790 North Arm Road, Ely, Property Manager of Camp Widjiwagan, was present.

One member of the audience spoke.

Brian Kirk, 3788 North Arm Road, stated he supports the project.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* stated this is a larger unit specifically designed for the health and safety of their guests. Are the applicants considering another sauna in the future along their shoreline that would meet regulations? *Matt Poppleton* stated they are not.
- B. Board member *Coombe* asked if the building has power. *Matt Poppleton* stated it does. Board member *Coombe* asked if there is propane for heat. *Matt Poppleton* stated their sauna is a wood sauna with an electric boiler. Board member *Coombe* asked if there is a septic system hooked into the sauna. *Matt Poppleton* stated there is no running water in the building. Their guests go into the lake. *Jacob Cahill* stated this is a dry sauna. As people add water to rocks, it helps to decrease the temperature in the building for those that are scheduled later. Everyone needs to have the same sauna experience. Board member *Pollock* asked if anyone had ever grabbed a bucket of water from the lake to dump over the rocks. *Jacob Cahill* stated no, these are young guests, and they are supervised well. No buckets are needed down there.

DECISION

Motion by McKenzie/Pollock to approve a variance to allow an 864 square foot water oriented accessory structure which exceeds the maximum allowed size, with a structure height of 16 feet which exceeds the maximum allowed height, based on the following facts and findings:

- A. Official Controls:
 1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.10 C., states that the maximum allowed size for a water oriented accessory structure is 250 square feet.
 - a. The applicant is proposing the replacement sauna to be 864 square feet.
 2. St. Louis County Zoning Ordinance 62, Article VI, Section 6.10 C., states that the maximum allowed height for a water oriented accessory structure is 12 feet.
 - a. The applicant is proposing a finished structure height of 16 feet.
 3. Official controls serve to regulate land use but allow varying from strict regulations when circumstances such as this unique circumstance are presented. This will help promote the general health and welfare of inhabitants and the reasonable use of the property in question more appropriately.
 4. The variance request is in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
 1. The need for privacy among a group of young people when changing before going to a common area dictates this will be a larger space in a building such as a sauna's 250 square foot limitation as called for by Ordinance.
 2. Regarding the structure height variance, the necessary size or space for such a structure, unless constructed with a flat roof, which is usually not recommended because of inevitable maintenance issues, dictates a pitched roof which would capitalize on a certain height. The plan calls for a 4/12 roof pitch which is not uncommon among roof pitches.
 3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The 500 square foot sauna has been in place for decades. According to the staff report, the requested 864 square feet will not decrease the shoreline setback and will be sited on 2,000 feet of private shoreline. Approval of the variance will not affect the character of the locality that has likely not changed since more modern-day regulations were created.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. Given the large size of the parcel, this property could have 11 water oriented accessory structures permitted rather than a single oversized structure requested. Requiring the structure to be sited 100 feet from the shoreline to accommodate ordinance requirements makes a sauna less practical for going into the lake and having that part of the sauna experience. It would also place the sauna further from the woodshed.
2. No correspondence was received in this case.

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 discharge directly into the lake or on adjacent lots.
3. All St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. Demolition waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
5. All local, state, and federal requirements shall be met.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Benjamin Spalding

The tenth hearing item is for Benjamin Spalding, subject property located in S32, T69N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, and Article IV, Section 4.3 D., to allow a dwelling at a reduced shoreline setback and to exceed the allowed structure width facing the water. *Skyler Webb*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a new 1,582 square foot dwelling at a reduced shoreline setback that will exceed the allowed structure width of 40 percent of the lot width.
- B. The applicant is proposing a dwelling setback of 50 feet from the shoreline where 75 feet is required.
- C. The applicant is proposing to create a new dwelling with 48 feet (44 percent) of the structure facing the shoreline where 44 feet (40 percent) is allowed.
- D. There is good vegetative screening from neighboring properties and from the shoreline.
- E. The parcel has an overall elevation change of 10 feet, sloping along the shoreline.
- F. The parcel is located within the floodplain. The proposal will not be affected.

Skyler Webb reviewed staff facts and findings as follows:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, states that the shoreline setback on a General Development Lake is 75 feet. The applicant is requesting a dwelling setback of 50 feet from the lake.
2. St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., allows a nonconforming principal structure to have a width facing the shoreline of 40 percent of the lot width if located within the shoreline setback. The applicant is proposing 48 feet (44 percent) of the structure to face the shoreline where 44 feet (40 percent) is allowed.
3. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving the management of nonconformities.
4. 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 are protected, and that the overall character of a given area is preserved.
5. 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. A variance is not the only option, as there is a conforming area for a new dwelling to be placed.
2. A new structure conforming to all ordinance requirements may be allowed with an approved land use permit.
3. Reducing the size and configuration of the structure could eliminate and reduce the request for variances.

C. Essential Character of the Locality:

1. The neighborhood consists of nonconforming parcels with dwellings at reduced shoreline setbacks.
2. The applicant is not proposing a new use to the area.
3. There has been one similar variance request within the plat, approving a new dwelling at a reduced shoreline setback.

D. Other Factors:

1. The structure will conform to property line, roadway, and septic tank setbacks.
2. The applicant spoke to the Land Use Team regarding alternatives to avoid a variance request and chose to move forward with the variance request.
3. A septic design was submitted showing that the septic tank would be placed closer to the property line. However, when the contractor installed the tank, it was placed farther from the property line than originally proposed.
4. Per the Onsite Wastewater Division, if the septic tank had been installed in the originally proposed location, the dwelling could have been moved back to maximize shoreline setbacks.

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.
6. Zoning Ordinance 62 states that “practical difficulties” as used in connection with granting a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance.

Skyler Webb noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a dwelling at a reduced shoreline setback and to exceed the allowed structure width facing the water as proposed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Stormwater runoff from the proposed structure shall not be discharged directly into the lake or onto adjacent lots.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. The structure shall be placed at a shoreline setback of 50 feet or greater to maximize setbacks to the greatest extent possible.
5. All local, state, and federal requirements shall be met.

Ben Spalding, 603 1st Street, Colo IA, the applicant, stated they want to utilize the topography of the existing land. This site is fully wooded with mature trees and there is a four to five foot elevation climb. They want to use the hump to build on. This would allow them some flood protection as they are on the river. Building on this hump would allow them to be in line with structures on either side of his property. He would not be any closer to or further away from the river than his neighbors. The designer submitted an application for a 2,000 gallon holding tank. The installer did not realize the tank was 2,000 gallons. The excavator was not large enough to move the unit. He was not on site during this. Had this holding tank moved to where it was supposed to be located and they met the shoreline setback of 75 feet, he would be moved off the hump he wanted to build on. Their structure would be half on and half off the hump. There could be potential runoff issues to the neighbors or water issues in his garage.

One member of the audience spoke.

Debra Sanders, 10141 Ash River Trail, Orr, stated she is a direct neighbor to the applicant. Her mother divided these lots off back in the 1980s. They do not conform to current regulations now. The applicant has a holding tank, not a septic tank. She runs the Board for the Ash River Sewer District and they are hoping the district will move in, in the next three to four years. At some point, the holding tank will no longer exist on the property. Her dwelling is located 50 feet from the river. There have been other variances for closer river setbacks.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked when an applicant gets their permit to construct if the permit is to be adhered to. *Skyler Webb* stated yes. Any applicant or landowner needs to adhere to the permit approval. If any adjustments need to be made, the applicant/landowner needs to inform the Environmental Specialists. Board member *Pollock* asked if staff had any information as to why the septic was moved. *Skyler Webb* stated no. Only the contractor was on the site when the septic was installed.
- B. Board member *Pollock* asked if the septic installer did not have the equipment necessary to move a 2,000 gallon tank. *Ben Spalding* stated the installer is used to 1,500 gallon tanks which are common. The excavator could move the 1,500 gallon tank. The crane on the truck and the excavator moved the 2,000 gallon tank to its present location.
- C. Board member *McKenzie* asked if the applicant had talked with the installer to rectify the situation. *Ben Spalding* stated they have, but the tank was installed three years ago. It was not in the desired location, but they thought they could work with it. It would be more desirable if the tank was moved. It was more important to utilize the hump, maintain the trees and leave the site alone. The alternative is to remove trees, clear-cut the site, haul the hump off and then he could build a structure that would meet all setbacks.
- D. Board member *McKenzie* asked if the applicant talked to the installer about how to make this right. *Ben Spalding* stated they have. This was not a fight but there was finger pointing about who to pay for it. This is an option. They would need larger equipment to lift the tank to move it.
- E. Board member *Zupancich* asked if the holding tank size was an accident or if the larger tank size was meant to happen. *Ben Spalding* stated he hired Jim Orton to take it from there. He lives in central Iowa, so this is new to him. This will be a two-bedroom dwelling.
- F. Board member *Coombe* asked if the site schematic was accurate in showing frost footings and a slab. *Ben Spalding* stated there will be frost footings that cap the slab with in-floor heat. Board member *Coombe* asked how high the platform in front of the applicant's house will be. *Ben Spalding* stated it will be 2.5 to 3 feet tall.

DECISION

Motion by Coombe/McKenzie to approve a variance to allow a 1,582 square foot dwelling at a reduced shoreline setback of 50 feet where 75 feet is required, and at 48 feet in width (44 percent), which exceeds the allowed structure width facing the water (40 percent), based on the following facts and findings:

- A. Official Controls:
 - 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.4, states that the shoreline setback on a General Development Lake is 75 feet. The applicant is requesting a dwelling setback of 50 feet from the lake.
 - 2. St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., allows a nonconforming principal structure to have a width facing the shoreline of 40 percent of the lot width if located within the shoreline setback. The applicant is proposing 48 feet (44 percent) of the structure to face the shoreline where 44 feet (40 percent) is allowed.
 - 3. This is a very narrow, shallow lot which limits the building area and the accidental placing of the holding tank has to do with where the house can be built.
 - 4. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. This is a developed area with a shallow lot and a sand ridge runs through it. The house should be placed on that ridge.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. This is a well-developed area with conforming and nonconforming parcels and conforming and nonconforming structures.
2. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. The structure will conform to property line, roadway, and septic tank setbacks.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Stormwater runoff from the proposed structure shall not be discharged directly into the lake or onto adjacent lots.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. The structure shall be placed at a shoreline setback of 50 feet or greater to maximize setbacks to the greatest extent possible.
5. All local, state, and federal requirements shall be met.

In Favor: Coombe, Filipovich, McKenzie, Pollock, Werschay, Zupancich - 6

Opposed: None - 0

Motion carried 6-0

Motion to adjourn by Pollock. The meeting was adjourned at 1:56 PM.