

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, MARCH 14, 2024.

9:30 AM – 11:22 AM

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

Board of Adjustment members absent: None - 0

Also present: Kristen E. Swanson, St. Louis County Attorney's Office
Tyler Lampella, Environmental Specialist Senior, St. Louis County Planning
Emily Burke, Environmental Specialist Senior, St. Louis County Planning

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

NEW BUSINESS:

- A. Northern Environmental Solutions (for Brett Hiemenz), S29, T55N, R16W (Ellsburg)
- B. Matt Massie, S28, T51N, R14W (City of Rice Lake)
- C. Peter and Anne Goldschmidt, S13, T52N, R15W (Fredenberg)
- D. Michael Jones, S35, T53N, R15W (Unorganized)

OTHER BUSINESS:

Motion by McKenzie/Manick to approve the minutes of the February 8, 2024 meeting.

In Favor: Coombe, Filipovich, Manick, McKenzie, Pollock, Werschay, Zupancich - 7

Opposed: None - 0

Motion carried 7-0

NEW BUSINESS:

Northern Environmental Solutions (for Brett Hiemenz)

The first hearing item is for Northern Environmental Solutions (for Brett Hiemenz), property is located in S29, T55N, R16W (Ellsburg). 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, a reduced property line setback, and a reduced structure setback. *John Otterbein*, St. Louis County Environmental Specialist, reviewed the staff report as follows:

- A. The applicant is requesting to replace a subsurface sewage treatment system located at a reduced shoreline setback of 48 feet where 75 feet is required, located at a reduced property line setback of nine feet where 10 feet is required, and located at a reduced structure setback of two feet where 10 feet is required.
- B. This system is a replacement to abandon an existing failing system.
- C. The parcel currently contains a dwelling, garage, and several small storage buildings.
- D. There is adequate vegetation screening from the shoreline and neighboring properties.
- E. There is an approximate elevation change of 14 feet, steeply sloping from the west side to the east side of the property towards the shoreline.
- F. There is a well located on the property, requiring a tank setback of 50 feet.
- G. There is a railroad grade that requires a right-of-way that will also limit where the septic can be placed.

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.
- 2. The required shoreline setback on a Recreational Development lake is 75 feet. The applicant is requesting a reduced shoreline setback of 48 feet.
- 3. The required property line setback is 10 feet. The applicant is requesting a reduced property line setback of nine feet.
- 4. The required setback from an existing structure is 10 feet. The applicant is requesting a reduced structure setback of two feet.

B. Practical Difficulty:

- 1. The parcel is zoned Shoreland Multiple Use (SMU)-7. The lot is 0.60 acres in size and 88 feet in width, where a lot size of 1.0 acre and 150 feet lot width is required.
- 2. There is minimal conforming area for replacement due to the parcel's narrow width and acreage.
- 3. The parcel contains a drilled well which requires a 50 foot setback, which limits replacement area for the system.

C. Essential Character of the Locality:

- 1. The area is zoned SMU-7 consisting of conforming and nonconforming residences.
- 2. There have been no similar variance requests within the area.

D. Other Factor:

- 1. There is limited septic replacement area due to the lot width and acreage.

John Otterbein noted one item of correspondence: a resolution from Ellsburg Township in support of the request. This item was received after the correspondence deadline and was provided to the Board of Adjustment on the day of the hearing.

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 the replacement of a subsurface

sewage treatment system at a reduced shoreline setback of 48 feet, at a reduced property line setback of nine feet, and at a reduced structure setback of two feet 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.

Brett Hiemenz, 3867 Sandberg Road, Duluth, the landowner, stated they have A1 coming out to pump their existing septic system every three weeks which is expensive. They want to move forward with this septic project and were able to use the warmer winter to do their work before presenting this. They will make a better and cleaner system over the one they currently have. With the property being a little over a half-acre in size and very narrow, they have some difficulty in placing this system.

No audience members spoke.

Board member *Filipovich* asked if the custom soils report fits what is going on with this property. *John Otterbein* noted this is a technical report that was composed by Robert Whitmeyer, one of the county's soil scientists. Mike Parrott from Northern Environmental Solutions, consulted with him on a challenging site, especially if there are soil conditions that go beyond his area of expertise. There is some comparison to soils located in the area and then details the soil in the immediate project area.

DECISION

Motion by McKenzie/Manick to approve a variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150 Subpart 2 (F), to allow the replacement of a subsurface sewage treatment system at a reduced shoreline setback of 48 feet where 75 feet is required, at a reduced property line setback of nine feet where 10 feet is required, and at a reduced structure setback of two feet where 10 feet is required, 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.
2. Official controls serve to regulate land use and allow varying from strict regulations when circumstances dictate as they do in this case. An unusual and small lakeshore parcel size, structure placement on the parcel, and the location of the well limit options for placement of the SSTS.
3. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant's parcel is too small to allow for a normally permitted setback of an SSTS from the property line, structure, and shoreline.
2. There does not appear to be a way to mitigate the conditions requiring a variance.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The installation of the SSTS, which will be mostly unseen, will not affect the essential character of the locality. The current use of the property is not a new use to the area.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The placement of the tank in the requested location will allow for proper well setback and correct the threat of a failing septic system.
2. Granting a variance will also protect the applicant's reasonable use of the property.
3. The resolution from Ellsburg Township indicated they had no objection to the proposal.

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, Manick, McKenzie, Pollock, Werschay, Zupancich - 7

Opposed: None - 0

Motion carried 7-0

Matt Massie

The second hearing item is for Matt Massie, property located in S28, T51N, R14W (City of Rice Lake). 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 100 feet where 150 feet on a trout stream is required.
- B. There is a principal dwelling, accessory structure (garage), existing septic, and well.
- C. The property has good vegetative screening from the shoreline, roadway, and neighboring properties.
- D. The property has a descending slope northward toward Amity Creek.
- E. There is a floodplain on the property that will not be impacted by the replacement SSTS.
- F. There appears to be wetland on the property that will not be impacted by the replacement SSTS.

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 shoreline setback of 100 feet.

B. Practical Difficulty:

1. The location of the principal dwelling, plumbing, and the landscape require the replacement septic tank to be installed within the setback.

C. Essential Character of the Locality:

1. The parcel is located within the City of Rice Lake zoning authority and is listed as Residential 1 (RES1).
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.

One member of the audience spoke.

Lourde Botone, 1015 West Tulane Drive, Tempe, AZ, stated she has no comment.

No other audience members spoke.

DECISION

Motion by Manick/McKenzie to approve a 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 of 100 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 shoreline setback of 100 feet.
2. It is positive for the county whenever someone upgrades an old septic system.
3. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The location of the principal dwelling, plumbing, and the landscape require the replacement septic tank to be installed within the setback.

2. The slope of the land makes it difficult to meet the required trout stream setback.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The parcel is located within the City of Rice Lake zoning authority and is listed as Residential 1 (RES1).
2. There have been no other similar variances within the surrounding area.
3. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. The mound system does meet the setbacks.

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, Manick, McKenzie, Pollock, Werschay, Zupancich - 7

Opposed: None - 0

Motion carried 7-0

Peter and Anne Goldschmidt

The third hearing item is for Peter and Anne Goldschmidt, property located in S13, T52N, R15W (Fredenberg). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., to allow an addition to a nonconforming principal structure outside the shore impact zone to exceed the 400 square feet allowed. *Paul Butler*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing an addition to the rear of an existing nonconforming dwelling.
- B. The proposed addition is 50 feet by 15 feet (750 square feet).
- C. The existing nonconforming dwelling is 50 feet by 32 feet (1,600 square feet) and is located 56 feet from Flowage Lake where 100 feet is required.
- D. The addition is to the rear of the structure and will not decrease the shoreline setback.
- E. The proposed height of the addition is 12 feet.
- F. There is good vegetative screening from the road and property lines. There is adequate screening within the shoreland area. The applicant stated they have removed some dead trembling aspen and birch trees.
- G. The property contains a steep slope which is approximately 20 percent slope.
- H. There is a floodplain on the parcel. Any future development will be required to conform to floodplain standards. The proposed project is outside of the floodplain.

Paul Butler reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62, Article IV, Section 4.3, states addition requirements for nonconforming principal structures.

- a. The applicant is requesting an addition of 750 square feet in size where a 400 square foot addition may be allowed through a performance standard permit.
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. A variance is not the only option, as there are alternatives.
 - a. A 400 square foot addition may be allowed to the existing nonconforming dwelling through a performance standard permit.
 - b. If the existing dwelling is relocated to the conforming shoreline setback, an addition may be allowed with a land use permit.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. Most of the parcels on Flowage Lake are utilized for seasonal or year-round residential use.
2. There have been no past variance requests within the proximity of the proposed project.

D. Other Factor:

1. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

Paul Butler noted one item of correspondence from Mary and Branden Robinson opposed to 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 an addition to a nonconforming principal structure outside the shore impact zone to exceed the 400 square feet allowed as proposed include, but are not limited to:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim, and roof.
2. Stormwater runoff from the proposed structure shall not discharge directly into the lake or on adjacent parcels.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. Excavation shall meet all land alteration standards in St. Louis County Zoning Ordinance 62, Article VI, Section 6.16.
5. The shore impact zone shall be preserved in a natural state and screening shall be retained.

Peter Goldschmidt, 3221 Ewing Street, Duluth, the applicant, stated his family has owned this property for almost 60 years. His father built the cabin. He and his wife purchased the property from his parents' estate. Since their purchase, they have replaced the roof, windows, a portion of the foundation, and modernized the septic system in 2017. They did riprap work on the shoreline to reduce erosion issues. They want to retire and spend their summers at the cabin. The cabin is small. The galley kitchen is too small for two people to work inside. The additional square footage would allow them to add a kitchen, potentially a dining room, and a family room. The addition will not increase the height or width of the cabin or encroach on either neighbor. He spoke with one of the Fredenberg supervisors who did not understand what the problem was.

He spoke with his septic excavator who told him that this area was all gravel and not clay.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if there is an issue with impervious surface because of the correspondent's concern about the new driveway. *Paul Butler* stated no. He and *Donald Rigney* reviewed this property, and they are allowed up to 25 percent impervious surface and have about 3,000 additional square feet of impervious surface to reach the maximum allowed. Impervious surface includes driveways, all buildings (in square footage), and gravel areas they looked at.
- B. Board member *Manick* stated there is a practical difficulty and there is an alternative addition size of 400 square feet. The applicant is not trying to encroach on the shoreline or increase the structure height. This is a great definition of "reasonable use." This applicant has done everything that is supposed to be done.
- C. Board member *Werschay* stated the application noted the steps going into the addition will not be as steep. This would also fit with "reasonable use." Board member *Pollock* agreed this is the right way to approach the variance.
- D. Board member *Coombe* noted the applicant would be allowed a structure height of 20 feet in this area and is requesting 12 feet.

DECISION

Motion by Coombe/Werschay to approve a variance for a 750 square foot addition to a nonconforming principal structure outside the shore impact zone to exceed the 400 square feet allowed, based on the following facts and findings:

- A. Official Controls:
 - 1. The dwelling has been in place for 60-plus years.
 - 2. The applicant is requesting an addition to the back of the dwelling, away from the shoreline, about 82 feet from the lake.
 - 3. The applicant believes that this is the most appropriate location and the most appropriate use of the land. The location of the proposed addition will preserve the value of the lot and is in the best location environmentally.
 - 4. This addition will maintain and enhance the applicant's property and the property's value by adding a larger kitchen, proposed indoor seating, a television room, and possibly another half bathroom.

5. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant, with this addition request, is proposing to use their property in a very reasonable manner with this addition being to the rear of the property and away from the lake.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The addition will be located behind the existing cabin. This addition will be hard to see from the lake or from the neighbors.
2. This is not a new use to this legal lot of record or the area.
3. The area has been developed with seasonal and year-round dwellings.
4. The variance request will not alter the essential character of the locality.

The following conditions shall apply:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim, and roof.
2. Stormwater runoff from the proposed structure shall not discharge directly into the lake or on adjacent parcels.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.
4. Excavation shall meet all land alteration standards in St. Louis County Zoning Ordinance 62, Article VI, Section 6.16.
5. The shore impact zone shall be preserved in a natural state and screening shall be retained.

In Favor: Coombe, Filipovich, Manick, McKenzie, Pollock, Werschay, Zupancich - 7

Opposed: None - 0

Motion carried 7-0

Michael Jones

The fourth hearing item is for Michael Jones, property located in S35, T53N, R15W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a replacement principal dwelling at a reduced shoreline setback.

LaShawn Rush, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing a replacement principal dwelling at a reduced shoreline setback of 65 feet where 100 feet is required.
- B. The property currently contains a principal dwelling, multiple accessory structures, and a private septic system.
- C. There is good screening from most sides of the property.
- D. There is a gradual slope from the dwelling to the shore with an elevation change of six feet.
- E. The lowest floor will be above the Regulatory Flood Protection Elevation.
- F. There are wetlands on the north side of the property that will not be impacted by the proposed project.
- G. The parcel is divided by NW Island Lake Road.
- H. At the January 11, 2024, Board of Adjustment hearing, the Board voted to “deny a variance to allow a replacement principal dwelling at a reduced shoreline line setback and to exceed

the allowed structure width facing the water without prejudice in order for the applicant to design a structure to maximize the shoreline setback to the greatest extent and minimize the structure width facing the water to meet current Ordinance standards. If the applicant cannot meet the required shoreline setback or reduce the width of the structure facing the water, the applicant would have to come back with justifiable criteria from the septic designer and building architect as to why these requirements cannot be met.”

LaShawn Rush reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62, Article III, Section 3.4, requires a setback of 100 feet from Recreation Development Lakes.
 - a. The applicant is proposing a 65 foot setback from Island Lake Reservoir.
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 applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 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 property is a MN Power Lease lot that was recently platted in September 2023 (Breezy Bay).
 - a. There are no notes from the review of the original plat expressing concerns for conforming buildable area.
2. There are alternatives that do not require a variance:
 - a. Reduction of size and change in configuration of the structure may result in a proposal being at a conforming location that would be allowed through a land use permit.
 - b. Current design is a self-created difficulty.
3. The proposal has changed since the January 11, 2024 public hearing.
 - a. The request for a structure width facing the water of 82 feet where 71 feet is required has been removed.
 - b. The proposed shoreline setback request has been increased from 58 feet to 65 feet where 100 feet is required.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The Breezy Bay Plat is developed with many seasonal and year-round residential uses.
2. The area consists of developed lakeshore lots with both conforming and nonconforming structures.

D. Other Factors:

1. St. Louis County Onsite Wastewater Division did not pass the record review of the proposal.
 - a. If the variance request is approved, the applicant will need to work with the St. Louis County Onsite Wastewater Division to meet their requirements before the issuance of a land use permit.
2. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

LaShawn Rush noted no items of correspondence.

RECOMMENDED CONDITIONS

Conditions that may mitigate the variance to allow a replacement principal dwelling at a reduced shoreline line setback 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 directly discharge into the lake or on adjacent lots.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.

Michael Jones, 4976 NW Island Lake Road, Duluth, the applicant, stated he addressed a few things since the January hearing. There had been questions about his septic system. This is an existing septic that was installed five years ago. He confirmed that his installer placed the septic as far back on the property as they could. He met with his septic designer on site to measure exactly where the system was located. This had been vague on the previous site sketch. There were also questions about if the house could be moved further back, as well as the existing garage and attached garage. He can save money by reusing the existing septic field. He spoke with Emily Burke about what he can do. The tank could be moved back between the existing and future septic fields. He had his septic designer sign off on this plan. He was told he did not need an application until after the variance was decided. He has to maintain a 20 foot setback to the septic fields. He can move the structure back seven feet. He removed the request for the structure width facing the lake.

He explained that he originally had a 202 foot wide lot. In October when he received his Minnesota Power packet, he found out he had a 177 foot wide lot. He would prefer a garage he could pull straight into. That did not work with the structure width he wanted. He instead added the attached garage behind the dwelling. There is an eight foot drop between this lot, his other lot, and the pond located behind the road. It would cost about \$30,000 to move his septic system to this backlot with the wetlands. He would need a mound system across the road which would be more costly than moving the existing septic tank. He would prefer not to run a septic line under the road because the line could freeze. There would be a lot less disturbance to the area using the existing system. He does not want to remove trees as they are his privacy buffer. He does not want to remove his existing garage. The current garage is full and is used for storage.

His neighbor was able to get a septic system on their property because they could place it at a depth that works. His septic would be located two feet above the water table which would work although not ideal.

He asked what the average shoreline setback is. Some neighbors have the same issue he does with the road too close to the house to meet the shoreline setback. The furthest back he saw one dwelling on this road was 70 feet.

His hardship would be the cost involved with moving the septic, which would require a mound system according to Emily Burke.

This will be their retirement home. They want to pull into an attached garage. This will fit nicely in with the neighborhood. Other homes in the neighborhood are similar in size and distance from the shoreline.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Manick* stated he appreciates the updated site sketch. He asked the applicant if they moved the existing septic back any further from the shoreline. *Michael Jones* said yes. Board member *Manick* asked if this is absolutely the furthest back the dwelling can go. There are variances granted for structure setbacks from the septic. The dwelling could be moved further back and encroach on the septic setback. *Michael Jones* said yes. There is cost associated with digging up the septic field. *LaShawn Rush* stated the current variance request is not for the septic. *Emily Burke*, St. Louis County Environmental Specialist Senior, stated she does not know if that would require a separate septic variance or not. If the setback is not met, the landowner would not be able to use their existing septic field. The landowner would need to use their alternate location. The applicant would need a septic variance to use the existing septic field.
- B. Board member *Pollock* asked if the existing septic system is a mound. *Emily Burke* clarified this is an in-ground system. Board member *Pollock* asked if there is a toe. *Emily Burke* stated there is no toe. The system is currently a 10 foot by 30 foot in-ground septic. It requires a 20 foot structure setback.
- C. Board member *Pollock* asked if the applicant would go from the driveway into the 34 foot side of the attached garage. *Michael Jones* stated yes. Board member *Pollock* asked if the applicant has a pontoon. *Michael Jones* stated he does and the pontoon is 24 feet long. One reason for the size of the attached garage is because he has a plow on the front of his truck. He does plow. Board member *Pollock* stated he understands what the purpose of the garage is.
- D. Board member *Coombe* asked if the applicant moved the dwelling back seven feet and then reduced the structure width by nine feet. *Michael Jones* clarified that 11 feet in structure width was removed. He removed a bedroom/office. He was not as prepared for the January hearing as he is now.
- E. Board member *McKenzie* stated this is a case of a self-created practical difficulty. The garage creates the problem with the setback. It is obvious that if the garage was smaller, the structure could be moved further back. The garage could be reconfigured to also move

the structure further back. This dwelling is too big for the lot. The lot is not big enough for what is being proposed.

- F. Board member *Coombe* stated he understands that point. This is an odd-shaped lot. The road goes through the middle of this lot. There is only this portion of the lot where everything can fit. The landowner has managed to fit everything on this portion of the lot. The applicant managed to move the structure further back from the lake than what was proposed in January. The applicant also reduced the width of the structure.
- G. Board member *Pollock* stated that this is too much on too small of a property. A stall could be removed from the attached garage to reduce the size of the structure. This proposal is a wish list. It is up to the applicant to decide if this is too much. Board member *Coombe* stated this is a reasonable request.
- H. Board member *Manick* stated he has an issue with the attached garage as it creates the issue with the shoreline setback. Another issue is does this request meet impervious surface requirements? The applicant said in January that the garage may be a luxury, but it is a necessity for storage. The garage could be reduced to a single stall and the structure could be moved further from the lake. The applicant could park their car in this garage and the car would be safe from snow. The applicant could add an addition to the detached garage for additional storage. The applicant wants to avoid clearcutting the lot. No one is asking him to. The applicant can still have an attached garage with a single stall and still have enough room to park. What the neighbors have does not matter here. He has a problem with the self-created practical difficulty.
- I. Board member *Pollock* does not agree with the practical difficulty being the size of the lot. If the size of the attached garage is reduced, the applicant could be further back from the lake. This is not any less reasonable use of the property to fit there.

DECISION

Motion by Coombe/Werschay to approve a variance for a replacement principal dwelling at a reduced shoreline line setback of 65 feet where 100 feet is required, based on the following facts and findings:

- A. Official Controls:
 - 1. Zoning Ordinance 62, Article III, Section 3.4, requires a setback of 100 feet from Recreation Development Lakes.
 - a. The applicant is proposing a 65 foot setback from Island Lake Reservoir.
 - 2. The applicant has approximately a 1.3 acre lot in size that is a lot of record. The legal lot of record has 177 feet of frontage. The applicant would be allowed the 71 foot frontage but due to constrictions of the septic, the structure cannot meet the shoreline setback.
 - 3. The applicant has moved the structure back seven feet further from the original January 2024 request.
 - 4. The shoreline setback cannot be met. The majority of the neighbors in the area do not meet the shoreline setbacks.
 - 5. The dwelling will meet all property line setbacks.
 - 6. The septic was installed in 2018.
 - 7. There are wetlands on the north side of the property.
 - 8. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant has a legal lot of record. The lot is divided by NW Island Lake Road which makes it difficult to site the dwelling with the location of the septic system on the lot.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The applicant is replacing a seasonal cabin built in approximately 1957 with a new year-round dwelling located 65 feet from the shoreline. This setback will be in line with other neighboring dwellings.
2. The new dwelling will be in unobtrusive colors and will fit nicely with the area.
3. The variance request will not alter the essential character of the locality.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
3. St. Louis County Onsite Wastewater SSTS standards shall be followed.

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

Opposed: Manick, McKenzie, Pollock - 3

Motion carried 4-3

Motion to adjourn by Coombe. The meeting was adjourned at 11:22 AM.