

"Draft"
MINUTES OF THE CARLTON COUNTY BOARD
OF ADJUSTMENT MEETING
March 15, 2016

- (1) Chair Ezell called the Board of Adjustment meeting to order at 7:01 p.m.
- (2) Members Present: Jack Ezell, Philip Johnson, Thomas Skare (alternate), Zoning Office Representative Mike Torma, and Recording Secretary Bonita Peterson.

Member Absent: Howard Eskuri

- (3) Motion by Johnson, seconded by Skare, and carried to approve the January 19, 2016, Board of Adjustment meeting minutes as presented. Motion carried.
- (4) Old business: None
- (5) Chair Ezell called the Public Hearing to order at 7:03 p.m.
- (6) Chair Ezell read that the legal ad was sent to the Star Gazette on February 25, 2016, and published in the Star Gazette on March 3, 2016.
- (7) Chair Ezell read the *Finality of Decisions* from Zoning Ordinance 27.
- (8) Chair Ezell read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27.
- (9) Variances

a) **Variance Request #316003 Joseph and Sarah Thom**

Joseph and Sarah Thom of 8208 Sunkist Blvd., Brooklyn Park, MN 55444, have requested a variance to consider a nonconforming lot buildable as long as all applicable setback and sewage treatment requirements are met. The lot is considered nonconforming as it does not meet lot width and lot area requirements. The property is described as Part of Government Lot 5 in the Northwest ¼ of the Southwest ¼ in Section 17, Township 48 North, Range 20 West on Eagle Lake in Eagle Township. The property address is 5885 Little Cloquet Road (90-010-2960).

Joseph and Sarah Thom were present to speak on their own behalf. Joseph Thom said there is a current cabin on the property built in the 50s or 60s that is basically used for storage. It is too close to the shoreline, sitting at approximately 72 feet, and they would like to tear it down. The idea started from them wanting to build something, and since the cabin is used for storage, they thought about building a shed. They learned that to put up a shed they would have to pursue a variance. After further questions about the cabin they realized it would make more sense to knock it down, go with the variance, and build something that would meet the setbacks.

Ezell said that their intent then is to build to meet the setbacks.

Joseph Thom said yes, they would tear the cabin down and put a new one back farther on the property.

Ezell read two emails received by the Zoning Office. The first email was from Paul Jarvi, 5883 Jarvi Road, Cromwell, MN 55726 opposing the variance. Zoning Administrator Cunningham's reply to this correspondence was also read. The second email read was from the email address of Kay Kingston and endorsed by Philip B. Jarvi, 5879 Jarvi Road, Cromwell, MN 55726. He also expressed his objection to the variance.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

J. Thom said they currently have a camper on the property that has been there since 2008 or 2009.

Ezell said that once they build the cabin would the trailer go away?

J. Thom said definitely.

Ezell asked about where the new cabin would be placed.

Sarah Thom said it would be up behind the current cabin on the flat area seen at the beginning of the video.

J. Thom said that about two years ago they had a pad put in with Class 5. It got too late in the season to haul the camper back up there.

Johnson clarified that according to the drawing, the front of the deck would be 112 feet from the OHWL of Eagle Lake.

J. Thom said yes, ideally they would not be closer.

Johnson asked if there were stakes in place.

J. Thom said there are not stakes in the ground. They were there when the pad was put in. Thoms had marked 100 feet so the contractor knew how far to go, but that happened to be in the middle of their driveway turnaround. He said that there is 12 to 14 feet to play with from their setback from the OHWL.

Johnson said they are aware of where that is, that they had the OHWL marked?

J. Thom said that it is marked. He also said they looked into a septic system and because of the soils they would need a holding tank. They picked a location for that making sure it met setbacks. It appears they have the room but the property does not meet the size requirements.

Johnson said that according to the diagram they would be roughly 14 feet from the closest property line.

J. Thom said yes and there is a little room to play with there. He said they do not plan to do anything extravagant on the lot.

Skare clarified that the variance is for a buildable lot and not for structures.

J. Thom said that is correct.

Ezell read Heather Cunningham's Development Review #316003 dated March 10, 2016. He asked if the Thoms understood and agreed to the three conditions listed in the development review.

J. and S. Thom said they did.

Ezell asked if there were any more questions from the Board.

Ezell asked if anyone in the audience was neutral, in support of or against the variance. There was no audience comment.

b) **Variance Request #316004 – Todd Schilla**

Todd Schilla of 5751 Eagle Lake Road, Cromwell, MN 55726 has requested a variance to construct a new nonconforming dwelling, deck and garage to replace an existing nonconforming dwelling, two garages and two bunkhouses. The dwelling is considered nonconforming as it will not meet the required setback from the ordinary high water level (OHWL) of Eagle Lake. The garage is considered nonconforming as it will not meet the required setback from the OHWL or centerline to Eagle Lake Road. The property is described as Part of Government Lot 2 in the Northwest ¼ of the Northeast ¼ in Section 17, Township 48 North, Range 20 West on Eagle Lake in Eagle Township. The property address is 5751 Eagle Lake Road (90-010-2860).

Todd and Cheryl Schilla were present to speak on their own behalf. They bought the property about two years ago and it has a lot of dilapidated buildings on it. Essentially they want to start over, take everything down, clean up the lot, and put up a new house and garage.

Ezell asked about the drawing with the new house and the setbacks they were proposing.

Todd Schilla said the drawings have been revised a lot. He said they received their development review today (03/15/16) from the Zoning Office.

Cheryl Schilla said that in the first letter it said that the dwelling would be approximately 28 (including the deck) feet by 54 feet. Todd Schilla added that the other size was 36 feet x 56 feet and the setback was going to be about 65 feet from the deck to the OHWL. This would move the building back by about 20 feet from where it exists today.

Cheryl Schilla said they would replace the existing garage with the new 26 feet by 45 feet proposed building.

Johnson said this building would be approximately 25 feet from the OHWL.

T. Schilla said yes.

Johnson asked why this could not be built further from the water.

T. Schilla said it was because he is too close to the road. The back of the existing garage is right up against the hill that goes straight down to the lake. He wants to use the existing wall.

Johnson asked the size of the existing garage.

T. Schilla said it was 21 feet by 24 feet.

Johnson said there was correspondence on file from the neighbor, Gary Fischer, who wrote that the fish house encroaches on the ten feet setback to his property.

Johnson said that on the diagram there are several buildings slated for removal.

T. Schilla said yes and discussed those buildings that will be removed. The fish house was one of them.

T. Schilla commented that in the letter received today it indicated the garage would be 3 feet from the road ROW. He could move the proposed garage four feet closer to the house which would increase the road setback seven feet. The road does a turn and by moving the building he could get the buffer back up.

Torma pointed out that they would have to meet a setback requirement to the classified stream on their property.

T. Schilla said this is correct. It was discussed with Karola Dalen of the Zoning Office when she came out to do the shoreland mitigation.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

T. Schilla explained during the video that the dirt and erosion behind the boat house was his fault. He dug it out before he knew he could not do that type of digging. He stopped right where he was at.

Johnson said he missed the digging. Was it on the shoreline?

Todd Schilla said the digging was 19 feet back from the shoreline.

T. Schilla asked Torma how they measured to the road.

Torma said they did it at an angle.

T. Schilla said they did it straight to the road and asked because he was curious how the numbers were so different.

Ezell read Heather Cunningham's Development Review #316004 dated March 10, 2016.

Ezell asked the Schillas if they understood and accepted those nine conditions listed in the development review.

T. Schilla said he really wants to build the garage according to the variance request. That is his only negative. If he moved it further towards the house he would get more ROW setback.

Skare said then T. Schilla would like this request tabled so he can present the Board with a new diagram?

T. Schilla said he can but he does not know how the process works.

Ezell said T. Schilla can make this request but the Board cannot direct him to table the request.

Johnson said Schilla would take out the boat house.

T. Schilla said he would take out the boat house.

Johnson said it sounds like Schilla will come back with a diagram that still requests a 26 feet by 45 feet garage.

T. Schilla said yes.

Johnson asked if Schilla was not willing to downsize to 24 feet by 24 feet.

T. Schilla said it is for storage and he needs the storage room. He needs the 45 feet because they have two boats. In the winter he does not want to pay to store the boats. With 45 feet they can store the boats on one side and park on the other. That is the reason he is requesting this size.

Skare asked the reason for going 24 feet by 24 feet.

Ezell referred to Cunningham's development review where it indicates that typically structures that are this non-conforming are allowed to be replaced but not allowed to expand. A standard garage is 24 feet by 24 feet. It is the Zoning Office's recommendation that the applicant reduce the size of the proposed garage.

T. Schilla commented that he is losing a lot of structures.

Skare clarified that this is where the old garage is located.

T. Schilla said it was correct.

Johnson said only about twice the size.

T. Schilla said he would not go wider but his pontoon will not fit in a smaller building.

Ezell said that according to Cunningham's calculations, going 24 feet in depth would give Schilla another foot.

T. Schilla said he would gain almost five feet if he shifted the building.

Torma said Cunningham is concerned about the erosion from the boat house area.

T. Schilla said he dug it out. It did not erode like that.

Torma said Schilla created the problem and he would have to shore it up.

T. Schilla said he would not have a problem doing that.

Johnson asked the size of the pontoon.

T. Schilla said it is 21 foot.

Johnson said with the trailer it probably will not fit into the 24 feet garage.

Skare referred back to the development review commenting that typically structures that are non-conforming are allowed to be replaced but not expanded. This is a variance request.

Johnson said the storage problem could not be solved by building up.

T. Schilla said no. The only other solution would be to put up another building but he is trying to get buildings off the property. He understands he is doubling the size of one, but he is getting rid of four others.

Skare reiterated that Heather is recommending a 24 feet by 24 feet building and Schilla is requesting a 25 feet by 46 feet structure. Skare does not have a problem with the request but he feels the Board needs a new diagram with the proper setbacks. So Schillas' options are to proceed with the current request or ask that this request be tabled so they can provide better diagrams to the Zoning Office.

Todd Schilla requested this variance be tabled.

Torma suggested Schilla may want to talk to Cunningham about the drawings.

Johnson said he would like to see the drawing enhanced with more accuracy. He wants one with the existing buildings that are being demolished, their sizes and setbacks, and another with the remaining and proposed structures with their sizes and setbacks.

Ezell said he would like information on the square footage of the structures being demolished.

Skare said Schilla should also present information on the erosion concern and how he will be solving that issue.

Torma said they also need the exact size of the proposed buildings so that when they go back out to measure, they can make accurate measurements.

Skare said they want separate dimensions of the house and the deck rather than lumping them together.

Ezell said they will hold public comment until the Board has all the information they need to act on the request.

c) **Variance Request #316005 – JPLR, Inc. – Peter and Jeanette Brown**

Peter and Jeanette Brown of Park Lake Resort, 2243 County Road 7, Mahtowa MN 55707 have requested a variance to allow an Administrative Subdivision – Lot Line Adjustment which will result in an existing non-conforming campground to become more non-conforming but result in no alteration to the existing uses. The campground is considered non-conforming as it does not meet the Planned Unit Development density standards for campgrounds and camping area setback requirements. The property is described as Part of Government Lot 3 in the Northwest ¼ of the Southeast ¼ in Section 29, Township 48 North, Range 18 West on Park Lake in Atkinson Township. The property address is 2243 County Road 7 (33-010-7142 and 33-010-7143).

Peter and Jeanette Brown were present to speak on their own behalf. Severt Grimm of 5738 Dara Drive, Kettle River, MN 55757 was also present to speak in behalf of the request. Severt Grimm explained the proposed lot line adjustment request to separate the campground from the resort.

Peter Brown said they have owned the property for almost thirteen years. They plan to keep things the same, but with his health issues they cannot continue doing everything.

Jeanette Brown said it is basically a simple adjustment of the property line with no changes to the business.

Johnson said the intention is to separate the two entities so they may sell one of the properties or both?

P. Brown said hopefully, but it is not that easy.

J. Brown said they had a lot of help from Cunningham with the drawing so that everything fits the zoning criteria.

P. Brown said it might be rare to compliment a county worker but Cunningham did a great job.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

P. Brown said they spoke to neighbor Noah Jurek and he did not have a problem with their proposal.

Ezell read Heather Cunningham's Development Review #315005 dated March 10, 2016.

Ezell asked Peter and Jeanette Brown if they understood those eight conditions listed in the development.

P. Brown and J. Brown both said yes.

Ezell asked if there was anyone in the audience neutral or in support of the request. Richard Hatanpaa of 4890 Mirror Way, Moose Lake, MN 55767 (mailing address PO Box 932, Monarch, MT 59463) was in favor of the request.

Ezell asked if there was anyone in the audience opposed the request.

Renee and Glenn Gaffney of 3463 Park Ridge Road, Barnum, MN 55707 are opposed to the request. Renee Gaffney said she did not know if it was allowed without formal paper work, but she did have a list of lake owners that were also opposed. These are people who contacted her either by telephone or email and are members of the Park Lake Association of whom she is president.

Johnson asked for clarification if R. Gaffney was speaking on behalf of herself or on behalf of the Park Lake Association.

Jeanette and Peter Brown said that they are also members of the Park Lake Association.

R. Gaffney said she was speaking on behalf of herself and for several members she had listed that are part of the association.

Johnson asked if the people R. Gaffney was representing had signed their name to anything.

R. Gaffney said they had not. She said she could get them. These people are out of state, had called Gaffneys, and could not attend the meeting. Otherwise they would be here in person.

Skare asked what the issue was.

R. Gaffney said they were opposed to the changes and that they had questions she wanted to ask. The quality of the septic has always been a question at the resort. The setback at the shoreline is a question. There are campers right on the waterline. Everyone else on the lake is required to be a certain number of feet from the shoreline. Since the resort is non-conforming, it does not seem like the rules apply. They were wondering that if the variance is approved, current regulations be applied to the new changes. There is a creek and a pond within the resort as well as the lake. They were wondering if these would be affected at all and if anyone took actual measurements from the waterline. This was an issue after the 2012 flood when the entire grounds were flooded. They questioned how a non-conforming property could become more non-conforming so they want clarification on that as well. The variance application said it would be business as usual. If there are potential buyers, what is their purpose for the property?

G. Gaffney asked if new owners would sell each campsite to each camper to generate more money and create an association that overlooks the whole campground. Would they have more campsites? Could they move more campers in there?

Torma said adding on to the campground would require a variance since it is not conforming. If a storage shed by the bar was requested, it would require a zoning permit application. A variance may be required depending on the setbacks.

G. Gaffney asked if the campground would need a central septic system for the campers.

Ezell said that according to the development review there are three compliant holding tanks on the property.

G. Gaffney said he thought the holding tank at the shower house was the original tank.

Torma said there is a total of seven tanks on the property.

Ezell said the three tanks he referenced from the development review are compliant and those compliances expire in August. He asked if they would be re-inspected.

Torma said they would not need re-inspection and the compliances are good for the purposes of this meeting.

Ezell said that according to the request for this meeting, the properties will continue to operate as is. If the properties were sold, one property would remain the restaurant/bar and duplex rental cabin; the other property would be campground with a couple of cabins. This subdivision request would be more limiting. They could not expand the number of campsites.

Torma said that if they wanted to add a new campsite, they would have to apply for a variance.

G. Gaffney said that if he bought the campground and wanted to sell off each lot to each camper and create an association, and each camper owned, say, their own 50 by 30 lot or whatever (thought incomplete).

Torma said this is not likely to happen.

Johnson said he could not see this as being possible. The new owner could try.

G. Gaffney said right, this is one of his concerns. His other concern is that the trailers that are on the lake, if it is non-conforming already, those campers should move back off the lake.

P. Brown said those campers have been there a long time.

Ezell said it is not the Board's position to conjecture on what might happen.

G. Gaffney said the other thing is that on the campground itself, do the campers need to drain in to an operable septic system?

P. Brown said each camper has a holding tank and Aardvark comes in to pump them out.

J. Brown said Aardvark also pumps their holding tanks.

S. Grimm said that there are no changes. He also said there is not one paper signed and there is no purchase agreement.

G. Gaffney said he can understand why the Browns want to split it. His concern is that someone new will come in with requests and something else is given to the grounds.

Ezell said with the new subdivision controls, it makes things more limiting for new development. It makes things more restricting rather than less restricting.

R. Gaffney said that going back to being more restrictive, was the distance from the campers to the actual waterline measured?

Torma said that those are existing campers and no measurements were taken.

Johnsons said there was no change requested that would make these measurements necessary.

R. Gaffney said that in cases where there is change some things have to be brought up to specifications such as being handicapped accessible. Along that line, when changes are made, do things have to have certain standards met?

Skare said it is pre-existing. He explained that if setbacks changed in R. Gaffney's property and her house was now too close to the setback, she would not have to move her house back because it is pre-existing. It is the same thing here because things are pre-existing.

Ezell asked the Board if they had questions or comments.

Ezell said he hoped the Board was able to address their concerns. There is no change to be made by granting this variance.

G. Gaffney said the big thing is the septic system. The resort and main duplex cabin system was replaced, the Cromwell and Eagle Lake cabins have tanks, but he did not know about the shower house system.

Ezell said that the systems at this time are compliant.

G. Gaffney said that if it sells and anyone wants to do anything else to that campground, they have to come in to the Zoning Office and apply for a permit, variance, conditional use or whatever.

Torma said it would likely be a variance.

d) **Variance Request #316006 – Richard Hatanpaa**

Richard Hatanpaa of 5012 Hwy 89 South, PO Box 932, Monarch, MT 59463 has requested a variance to allow an after-the-fact deck addition to a dwelling. The deck addition does not meet the required side yard setback. The property is described as Lot 15 of Lake Park Plat in the Southeast ¼ of the Southeast ¼ of Section 31, Township 46 North, Range 19 West on Sand Lake in Moose Lake Township. The property address is 4890 Mirror Way (63-190-0300).

Richard Hatanpaa was present to speak on his own behalf. He requested an email that he sent be read out loud. He said the reason he sent the email with the drawings was so the Board could see how they were constructed. The building materials and how they were put in place were shown, along with the explanation of the building process back then.

Ezell read the email for the record.

Hatanpaa said the lot is 50 feet wide, the structure of the home is 28 feet wide, the side deck in question on the north side of the building is 4 feet wide so it is 3 feet into the setback. There is 14 feet from the center of the building and 4 feet of deck for 18 feet and another 7 feet to the property line. The variance request is to allow the deck to remain on that three feet.

Ezell asked how the house ended up two feet wider.

Hatanpaa said the architectural plan they purchased showed a 30 feet wide building. They built it 28 feet wide, but the eave hangs over one foot on each side. They did not know the eave had

to conform to the setback. They shrunk the building to 28 feet, the eave is one foot on either side, so the building is 30 feet wide.

Hatanpaa asked if the eave mattered for the structure setback.

Torma said the issue is the seven feet setback from the deck to the property line which is supposed to be ten feet.

Torma said the rear deck is 12 feet by 20 feet.

Hatanpaa said that to get to the entry there was a door on the north side in the middle of the home. The house came out of the ground so high and with the elevation of the slope of the ground, steps would have to come way out almost hitting the property line. That entry seemed more reasonable with a wraparound deck.

Johnson asked if the facility was currently being rented out.

Hatanpaa said not currently.

Johnson asked if that was the plan.

Hatanpaa said he went to Montana to work in 2011. His wife stayed here another year until their daughter graduated high school. He built the home to retire in it. With the tough recession he needed the work. They have had renters in and out of there while they have been living out of state.

Johnson asked if they plan to have renters.

Hatanpaa said they might have renters if they have to stay in Montana longer for their work.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed.

Johnson asked if the house had a V-shaped front.

Hatanpaa said yes it has a prow type front.

Johnson asked if it also had a V-shaped deck.

Hatanpaa said yes.

Johnson said when it shows seventy-five feet to the OHWL, was this measured from the edge of the V of the deck.

Torma said he was not there when it was measured.

Johnson asked if the front deck in the original plan was approved.

Hatanpaa said yes.

Ezell read Heather Cunningham's Development Review #316006 dated March 10, 2016.

Ezell asked if Hatanpaa understood those four conditions listed in the development review.

Hatanpaa said yes and said he did not get a copy of Cunningham's findings. He asked if he could comment. He said they built the home in 1999 and moved into the basement in late November 1999. The building was finished in 2000. At that point in time there was no other entry or steps on the front or sides other than what they see now.

Hatanpaa was asked to help the Board fill out the back page of the Findings of Fact per Cunningham's request.

Skare brought up that there was opposition to the variance request at the November 17, 2015, meeting. The Board did not take action on the request because there was no representation.

Ezell read the comments written in the November 17, 2015, Board of Adjustment meeting minutes. They were made by Andy Nygren who was opposed to this request.

Hatanpaa said they did not get notice of the November 17, 2015, meeting because they changed their address in Montana and had put down the wrong zip code. They did not get mail for three months. Their son was listed as a representative. He was going to school and did not respond to the notice nor did he call to let them know about the meeting. Hatanpaa called Cunningham to ask about getting a notice and she said the request was denied because no one showed up.

Johnson asked if there was a roof over the four foot deck along the length of the house and what the purpose of that roof was.

Hatanpaa said there is a roof and it is for snowfall off the main roof. It would be detrimental for the deck to handle the runoff from the metal roof. It is for safety and to preserve the deck.

There was no one in the audience neutral, in support of, or opposed to the request.

(10) The public hearing closed at 8:52 p.m.

(11) The Board of Adjustment meeting re-opened at 9:02 p.m.

Variance Request #316003 Joseph and Sarah Thom Motion by Johnson, seconded by Skare and carried to **GRANT** Variance #316003 and include those three conditions listed in Administrator Cunningham's Development Review dated March 10, 2016.

Findings of Fact

1. Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance? *Yes. The applicants are proposing a reasonable use of the property. The lot has been used as a seasonal dwelling since 1947, which is what the applicants are proposing. The applicants are proposing to tear down a cabin that does not meet the OHWL setback and replace it with a cabin that meets all setback requirements.*

2. Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner? *Yes. The practical difficulty appears to be that the lot was created prior to official controls.*

3. If the variance is granted, it will not alter the essential character of the locality? *Yes. The granting of the variance should not alter the essential character of the locality. Several parcels in the adjacent plat (Eagle Wood Plat, 1933) do not meet lot width or area requirements. Several of these lots also utilize a holding tank.*

4. Does the practical difficulty involve more than economic considerations? *Yes. It does not appear that economic considerations constitute the practical difficulty for reasonable use for this property. As stated above, the applicants are proposing to tear down a cabin that does not meet the OHWL setback and replace it with a cabin that meets setback requirements.*

5. If the variance is granted, it will not be granting a use that is not allowed in the zoning district in which the subject property is located? *Yes. The variance will not be granting a use that is not allowed in an R-1 Zoning District.*

6. Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan? *Yes. The terms of the variance appear to be in harmony with the Carlton County Community-Based Comprehensive Plan. The applicants are proposing to meet all applicable setbacks, including from the OHWL. The Plan encourages preserving and restoring native vegetation along shorelines.*

Conditions

1. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances

2. The property shall be considered buildable without the granting of a variance so long as all applicable setbacks, lot coverage and SSTS requirements are met.

3. If the applicants fail to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

Variance Request #316004 – Todd Schilla Motion by Johnson, seconded by Skare and carried by all yeas to table this request so the applicant can return with additional information.

Variance Request #316005 – JPLR, Inc. – Peter and Jeanette Brown Motion by Skare, seconded by Johnson and carried by all yeas to **GRANT** Variance #316005 and include those eight conditions listed in Administrator Cunningham's Development Review dated March 10, 2016.

Findings of Fact

1. Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance? *Yes. The property owner is proposing to use the property in a reasonable manner. The resort will essentially function in the same manner as in the past. The proposed administrative subdivision will result with one parcel with the campground and two cabins and the other parcel with the restaurant/bar and duplex. Carlton County Zoning Ordinance #27 indicates that off-sale liquor and restaurants are a permitted use and recreational campgrounds are a conditional/interim use.*

2. Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner? *Yes. The practical difficulty appears to be that the resort was established prior to official zoning controls.*

3. If the variance is granted, it will not alter the essential character of the locality? *Yes. The granting of the variance should not alter the essential character of the locality as no changes are proposed other than having two owners of two parcels. There should not be an increase in traffic or use of the properties.*

4. Does the practical difficulty involve more than economic considerations? *Yes. It does not appear that economic considerations constitute the practical difficulty for reasonable use for this property. While the property owners are interested in selling the resort resulting in the variance request, there are not changes proposed for the resort, number of sites, bar, cabins, etc.*

4. If the variance is granted, it will not be granting a use that is not allowed in the zoning district in which the subject property is located? *Yes. The variance will not be granting a use that is not allowed within the C-1 Zoning District. Carlton County Zoning Ordinance #27 indicates that off-sale liquor and restaurants are a permitted use and recreational campgrounds are a conditional/interim use.*

6. Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan? *Yes. The terms of the variance do not appear to be in conflict with the*

Carlton Count Community-Based Comprehensive Plan. The C-1 Zoning District is designated for this type of use.

Conditions

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.
2. The permit is invalid, or expires, if the holder does not have the work completed within one year of the granting of the permit. The work is defined as the approval of the administrative subdivision and filing of deeds and private roadway maintenance agreement.
3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.
4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
5. The administrative subdivision shall comply with Carlton County Zoning Ordinance #27, Carlton County Subdivision Ordinance #28 and Carlton County Subsurface Sewage Treatment System Ordinance #30.
6. A survey shall be completed for the administrative subdivision and shall include the requirements listed for a minor subdivision in Carlton County Subdivision Ordinance #28.
7. If the driveway is shared for the two parcels, a private roadway maintenance agreement shall be submitted with the administrative subdivision application and shall be recorded.
8. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

Variance Request #316006 – Richard Hatanpaa Motion by Johnson, seconded by Skare and carried by all yea votes to **GRANT** Variance #316006 and include those four conditions listed in Administrator Cunningham's Development Review dated March 10, 2016.

Findings of Fact

1. Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance? *Yes. The applicant is requesting a reasonable use of the property. The applicant would like to retain two decks.*
2. Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner? *Yes. It could be argued that the property owner contributed to the practical difficulty by knowingly constructing decks without benefit of a zoning permit. The*

applicant was aware the deck would not meet the side yard setback. In addition, the dwelling is two feet wider than what was permitted. The lot was platted in 1923 before official zoning controls were established in 1968 with a lot width of 50 feet. The standard for a sewer lot on a Recreational Development Lake is 75 feet. The substandard lot width could also be considered the practical difficulty.

3. If the variance is granted, it will not alter the essential character of the locality? *Yes. The granting of the variance should not alter the essential character of the locality. The majority of the lots have been developed as single lots, 50 feet in width.*

4. Does the practical difficulty involve more than economic considerations? *Yes. It does not appear that economic considerations alone constitute the practical difficulty for reasonable use for this property. The applicant would like to retain two decks.*

5. If the variance is granted, it will not be granting a use that is not allowed in the zoning district in which the subject property is located? *Yes. The variance will not be granting a use that is not allowed within the R-1 Zoning District. Single family residences are a permitted use.*

6. Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan? *Yes. The terms of the variance do not appear to be in conflict with the Carlton County Comprehensive-Based Plan.*

After the fact questions:

1. Why did the applicant fail to obtain a variance, and did the applicant act in good faith? *The applicant constructed a deck due to adjusted height of building to compensate for sewer elevation.*

2. Did the applicant attempt to comply with the law by obtaining permits? *The applicant inadvertently constructed the decks without a permit.*

3. Did the applicant obtain a permit from another entity that violated the law? *No.*

4. Did the applicant make a substantial improvement in the property? *The decks and roof along the deck are a substantial improvement.*

5. Did the applicant complete repairs, construction before the applicant was informed of the impropriety? *Yes.*

6. Is the nature of the property residential/recreational and not commercial? *The property is residential. The applicant plans to retire to this home.*

7. Are there similar structures in place? *There are similar single family homes along the lake.*

8. Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced? *No.*

Conditions

1. The applicant must undertake the project according to the plans and specifications detailed in the application or as modified by the Board of Adjustment.

2. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.

3. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

4. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

(12) Other Business - none

(13) A motion was made by Skare, seconded by Johnson, and supported by all yea votes to close the Board of Adjustment meeting at 9:05 p.m.

Respectfully submitted,

Bonita L. Peterson
Recording Secretary