"Draft"
MINUTES OF THE CARLTON COUNTY BOARD
OF ADJUSTMENT MEETING
April 19, 2016

(1) Chair Ezell called the Board of Adjustment meeting to order at 7:00 p.m.

(2) Members Present: Howard Eskuri, Jack Ezell, and Thomas Skare (alternate), Zoning Office Representative Mike Torma, and Recording Secretary Bonita Peterson. Philip Johnson resigned effective March 31, 2016.

(3) Motion by Eskuri, seconded by Skare, and carried to approve the March 15, 2016, Board of Adjustment meeting minutes as presented. Motion carried.

(4) Old business: None

(5) Chair Ezell called the Public Hearing to order at 7:02 p.m.

(6) Chair Ezell read that the legal ad was sent to the Star Gazette on March 31, 2016, and published in the Star Gazette on April 7, 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 #316004 Todd Schilla – (tabled from March 15, 2016 meeting)**
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). This request was tabled at the March 15, 2016, Board of Adjustment meeting.

Todd and Cheryl Schilla were present to speak on their own behalf.

Ezell said that Todd Schilla tabled his request at the last meeting so he could come back with additional information for setback changes, size of building, and so forth. Ezell turned the floor over to Todd Schilla.

T. Schilla said the biggest concern was the right-of-way to the road for the garage setback. He shifted the garage 7 feet east which changed the centerline setback from 33 feet to 40 feet. He still wants a 26 feet by 45 feet garage.

Ezell said the house setback has changed, too. It is still 65 feet from the lake shoreline. It changed from 73 feet to 78 feet to the OHWL on the stream. The garage was 35 feet from the centerline of Eagle Lake Road and that is changing to 40 feet. It was 2 feet from the road right-of-way and has now changed to 7 feet. Is that correct?

T. Schilla said yes. He also said they will be taking down all six of the old structures and putting up two new ones.

Ezell asked about the garage size because the Zoning Office has issues with the proposed size.

T. Schilla said he understands the concern but he is taking down more square footage than he is putting up. He needs the garage storage for two cars and boat storage for the winter.

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

Ezell read Heather Cunningham's Revised Development Review #316004 dated April 12, 2016.

Ezell said the he knows T. Schilla has issues with recommendation #6 which is the garage size.

Skare said something was mentioned about an engineer.

T. Schilla said Cunningham was going to give him the name of a shoreline engineer. Schilla will then contact him and figure out what they can do with the hill.

Skare said the main purpose is to stabilize the hill.

T. Schilla said that is correct. It is to stabilize the part that he dug out.

Skare said that the 45 feet garage issue above the hill should also be addressed.

T. Schilla said absolutely; he does not want the garage to slide down the hill.

Ezell said one of the points in the conditions was that the garage shall be no closer to the road right-of-way than 7 feet and no closer to the OHWL of Eagle Lake than 25 feet. It looks like the proposed garage dimensions meet these requirements. The issue is the requested 45 feet length of the building.

Ezell asked if the Board had any more questions.

Ezell asked if anyone in the audience was neutral or in support of this request? He then asked if anyone was opposed to the request. There was no audience comment.

b) **Variance Request #316007 – Justin and Kimberly Evander**

Justin and Kimberly Evander of 19 4th Street, Cloquet, MN 55720 have requested a variance to construct an attached garage and deck onto a nonconforming dwelling. The dwelling is considered nonconforming as it does not meet the required setback to the centerline of County Road 6 and setback from the ordinary high water level of Hunter's Creek. The property is described as Part of the Southeast ¼ of the Southwest ¼ in Section 35, Township 47 North, Range 18 West. The property is riparian along Hunter's Creek and an Unnamed Tributary Stream to Hunter's Creek in Barnum Township. The property address is 2835 County Road 6, Barnum, MN 55707 (39-020-1935).

Justin and Kimberly Evander were present to speak on their own behalf. J. Evander said the property has an old nonconforming farm house. It is too close to the road and too close to the creek. They would like to add an attached garage to the front of the house which faces the current driveway, and they would like to add a small deck on the back of the home.

Skare asked if the deck was on creek side.

J. Evander said it is on the creek side and this is the part of the structure that would be closer to creek. The garage will not be any closer to the road or creek than the house.

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

Ezell asked if there were any other porches or deck on the creek side of the house.

J. Evander said no.

Ezell read shoreland mitigation comments from a letter dated April 7, 2016, by Karola Dalen of the Zoning and Environmental Services Office.

Ezell read Heather Cunningham's Development Review #316007 dated April 12, 2016.

Ezell asked if Justin and Kimberly Evander understood those six conditions listed in the development review.

Justin and Kimberly said they did understand those conditions.

Ezell asked if anyone in the audience was neutral of or in favor of the request. Milt Zezulka of 2798 County Road 6, Barnum, MN 55707 was in favor of the request.

Ezell asked if anyone in the audience was opposed. There was no opposition to the request.

c) **Variance Request #316008 – Daniel Follett**

Daniel Follett of 501 Brookston Road, Cloquet, MN 55720 has requested a variance to construct a new nonconforming dwelling and deck to replace an existing nonconforming dwelling and

deck. The dwelling and deck are considered nonconforming as they will not meet the required setback from the road right-of-way and side yard line. The property is described as Lots 27, 28, 29, 56, 57 and 58, Block 2 of Torchlight Lake Cabin Sites in the Northwest ¼ of the Southeast ¼ in Section 8, Township 48 North, Range 18 West in Sawyer Township. The property address is 1616 Loon Lane (98-220-0860 and 98-220-1135).

Skare disclosed that he has a conflict of interest. He said that Dan and Denise are good friends of his. He is also their client as their son is working on his building.

Dan and Denise Follett were present to speak on their own behalf. Dan Follett said the building is sitting catawampus on the corner of the property. After neighbors mentioned it, Mr. Follett had the property surveyed and discovered the building was 8 feet plus on one corner and 6 feet 8 inches on the other corner on the platted road right-of-way. This right-of-way is not used, but it is platted. They have a child in a wheelchair and there is not enough room to build a ramp to get him into the building. They would like to move the building east off the right-of-way but not too far east because they want to avoid the wetlands. The building is not on a good foundation; it sits on creosote piers. They want to make the building something decent and off the road right-of-way, out of the congestion area, and have room to park vehicles off the road. It would also be updated so it is available for everyone, not just those that can climb steps.

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

Ezell read Heather Cunningham's Development Review #316008 dated April 12, 2016.

Ezell asked about the 8 feet setback.

Dan Follett said getting farther from the wetland would be beneficial. His neighbor Travis Williams has no problem with this. He said keeping the building closer to the north would be better to stay away from the wetlands area. He will have to bring in material to fill in the south east corner where the building will sit. The building is currently on a steep hill slope. It will also help with frost protection on the south side of the building.

Skare asked what the setback is.

Dan Follett said the furthest is about 12 to 12½ feet and the closest would be about 11 feet. He wants to shift the building over and set it parallel to the property line.

Ezell asked if there would be a retaining wall.

Dan Follett said yes, on south side. He said it is a delicate area and he wants to stay behind the wetlands.

Ezell asked Dan Follett if he understood those six conditions listed in the development review.

Dan Follett said that they did.

Ezell asked if anyone was neutral of or in favor the request. He then asked if anyone in the audience was opposed to the request. There was no audience comment.

(10) The public hearing closed at 7:50 p.m.

(11) The Board of Adjustment meeting re-opened at 8:05 p.m.

a) **Variance Request #316004 Todd Schilla – (tabled from March 15, 2016 meeting)**
Motion by Eskuri, seconded by Skare and carried by all yea votes to **GRANT** Variance #316004 amended request and include those eight conditions listed in Administrator Cunningham's Development Review dated April 12, 2016, with Condition #6 modified: The garage shall be 26 feet by 45 feet providing a wetland engineer is consulted and the hill along the shoreline is stabilized. The garage shall be no closer to the road right-of-way than 7 feet. The garage shall be no closer to the OHWL of Eagle Lake than 25 feet.

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, with the exception of the proposed garage. Typically, structures that are this non-conforming are allowed to be replaced but not allowed to expand. The applicant is proposing to construct a new dwelling and deck, which results in an increase of 25 feet to the setback of the OHWL to Eagle Lake but a reduction in setback to the Unnamed Tributary Stream. The applicant will be removing three non-conforming structures, one garage and two bunkhouses. The applicants shall remove the boathouse. The new garage will be 26 feet by 45 feet.*

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 the wetland located between the proposed dwelling and Eagle Lake Road. In addition, the lot is irregular in shape and narrow.*

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, with the exception of the garage. Structures, including several dwellings on the north side of the lake, do not meet the setback to the OHWL. The setback of 2 feet from the road right-of-way could be argued to be out of the character of the neighborhood. As the garage has been in this location prior to official controls, it could be considered the character of the locality.*

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. The applicant is proposing to construct a new dwelling and deck which results in an increase of 25 feet to the setback of the OHWL. The applicant will be removing three non-conforming structures, one garage, two bunkhouses and the boathouse. The shoreline and hill will be stabilized.*

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. The proposed plan will bering the density into compliance as they are proposing to go from 3 dwellings to 1 dwelling.*

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 Community-Based Comprehensive Plan other than the plan encourages preserving and restoring native vegetation along shorelines. The shoreland mitigation plan should address this issue. This office would like the boathouse removed and the shoreline and hill stabilized.*

Conditions

1. The applicant must undertake the project according to the plans and specifications as determined by the Board of Adjustment.

2. The permit is invalid, or expires, if the holder does not have the work completed within two years of the granting of the permit.

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 applicant shall institute the mitigation practices by March 15, 2017.

6. The garage shall be 26 feet by 45 feet providing a wetland engineer is consulted and the hill along the shoreline is stabilized. The garage shall be no closer to the road right-of-way than 7 feet. The garage shall be no closer to the OHWL of Eagle Lake than 25 feet.

7. The boathouse shall be removed and the shoreline stabilized in conformance with Carlton County Zoning Ordinance #27.

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 #316007 – Justin and Kimberly Evander

Motion by Skare, seconded by Eskuri and carried by all yea votes to GRANT Variance #316007 and include those six conditions listed in Administrator Cunningham's Development Review dated April 12, 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 requesting a reasonable use of the property. They are requesting an attached garage and deck. There does not appear to be a location for the deck that would not further encroach on the setback to Hunter's Creek.*

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 the fact that the house was constructed 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. While the locality does not appear to have other dwellings that do not meet the required setbacks to the centerline or creek, the dwelling has been located on the property since before 1972.*

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. The property owners would like a deck and attached garage.*

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 A-2 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 Community-Based Comprehensive Plan other than the plan encourages preserving and restoring native vegetation along shorelines. The shoreland mitigation plan should address this issue.*

Conditions

1. The applicants 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.

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 applicant shall institute the mitigation practices by April 19, 2017.

6. 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 #316008 – Daniel Follett

Motion by Eskuri, seconded by Ezell and carried (Skare abstained) to **GRANT** Variance #316008 and include those six conditions listed in Administrator Cunningham's Development Review dated April 12, 2016, with a modification to Condition #5 to state: Dwelling shall not be located less than 8 feet from the side yard.

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 not permitted by ordinance. The applicant is removing a structure that is located in the road right-of-way. The applicant is proposing a larger structure than the existing dwelling but needs to construct the deck and dwelling so that it is handicapped accessible.*

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 it is a substandard lot which was platted before official controls and before wetlands were located through the property.*

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. Most of the structures are located within the road right-of-way of Loon Lane and do not meet the side yard line setback. However, it is this office's opinion that the dwelling could be constructed to meet the side yard setback.*

4. Does the practical difficulty involve more than economic considerations? *Yes. It does not appear that economic considerations alone constitute the practical difficulty for the property. The practical difficulties for this property appear to be that it is a substandard lot that was platted before official controls and before wetlands were located through the property.*

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 request is not for a use that is not permitted in an 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 Community-Based Comprehensive Plan.*

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 is invalid, or expires, if the holder does not have the work completed within one year of the granting of the permit.

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. Dwelling shall not be located less than 8 feet from the side yard.

6. 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 Eskuri, seconded by Skare, and supported by all yea votes to close the Board of Adjustment meeting at 8:08 p.m.

Respectfully submitted,

Bonita L. Peterson
Recording Secretary