

**Draft**  
**MINUTES OF THE CARLTON COUNTY BOARD**  
**OF ADJUSTMENT MEETING**  
**September 20, 2016**

- (1) Chair Ezell called the Board of Adjustment meeting to order at 7:00 p.m.
- (2) Members Present: Howard Eskuri, John Manninen, Jack Ezell, Thomas Skare (alternate), Zoning Office Representative Jody Meyer, and Acting Recording Secretary Dave Hurst.  
  
Member Absent: None
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the August 16, 2016, Board of Adjustment meeting minutes as presented. Motion carried.
- (4) Old business: None
- (5) Chair Ezell called the Public Hearing to order at 7:01 p.m.
- (6) Chair Ezell read that the legal ad was sent to the Star Gazette on September 1, 2016, and published in the Star Gazette on September 8, 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 #316022 Dan and Mary Janssen**

Mary and Dan Janssen of 4728 Preserve Court North, Hugo, MN 55038 have requested a variance to replace a garage/bunkhouse on a nonconforming lot. The lot is considered nonconforming as it does not meet the lot width and lot area requirements for a second dwelling. The property is described as Part of Government Lot 1, Section 21, Township 49 North, Range 18 West in Perch Lake Township on Big Lake. The property address is 3286 Welter Drive (PIN 92-010-3640).

Dan and Mary Janssen were present to speak on their own behalf. D. Janssen explained there is an existing structure they wish to replace. The proposed structure would be to replace with new garage/storage area and would be no more than 15 feet in height and would fit in same footprint. They certainly want to abide by the setback of 100 feet to lake. The existing structure needs to be upgraded so rather than repair they plan to take it down and rebuilt.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Dan and Mary Janssen narrated the video.

Ezell asked if there were any questions by the Board? There were none.

Ezell read Heather Cunningham's Development Review #316022 dated September 12, 2016.

Ezell asked if they understood and agreed to the six conditions listed in the development review. The applicants indicated yes.

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

b) **Variance Request #316023 Kwik Trip, Inc.**

Kwik Trip, Inc. of 1626 Oak Street, LaCrosse, WI 54602, represented by Ryan Roberts, has requested a variance to construct a sign exceeding the maximum height limit for the C-2 Highway Commercial Zoning District. The property is located in Part of the S ½ of the SE ¼ of the SE ¼, Section 3, Township 48 North, Range 17 West in Twin Lakes Township. The property address is 1711 Highway 210 (PIN 81-030-0800 and 0820).

(Zoning and Environmental Services Office received email dated September 19, 2016, from Ryan Roberts, Kwik Trip Store Engineer Project Manager/Representative, that Joe Radach would represent applicant at public hearing. Copy of email has been placed with original #316023 file).

Joe Radach, Professional Engineer of Carlson McCain, Inc., 248 Apollo Drive, Suite 100, Lino Lakes, MN 55014 was present to speak on applicant's behalf.

Ezell read the applicant's request as published in legal ad, and asked Radach to explain the request.

Radach said Kwik Trip has purchase agreement for property and there is an existing sign located on same spot that Kwik Trip is proposing for 100 feet new sign. The existing sign also received a variance to exceed height (75 feet) for previous business of same use. As the trees grow, the sign needs to get higher to allow safe movement to get off freeway which is primary difficulty. Kwik Trip requests variance to exceed height due to difficulty of not allowing enough advertising warning for safely allowing patrons to exit freeway to business. Sign is for 8,000 square feet gas station/store planned for 2017 that will employ approximately 25-35 employees and allow diesel gas/parking. Half will be full-time positions with benefits. Kwik Trip feels this sign is very important to their business and is major factor in drawing customers to this location.

Ezell asked if the board had questions.

Manninen asked if this will be a new sign.

Radach indicated yes, it will be in same location but have a brand new engineered base with single pole and new constructed sign.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed and Radach narrated. He indicated that with over-the-road truckers, RVs and campers, there needs to be more response time to exit highway.

Ezell read Heather Cunningham's Development Review #316022 dated September 14, 2016, and asked Radach if he understood all 7 conditions. Radach responded yes.

Manninen asked about the setback issue with pylon located at the site that was mentioned in email from Heather Cunningham dated August 17, 2016, to Scott Teigen of Kwik Trip and copy to Ryan Roberts of

Kwik Trip. The pylon sign is too close to the road right of way and must be 10 feet from road right of way. Will this be resolved?

Radach indicated the survey indicates approximately 25 feet setback, but maybe stakes were placed incorrectly. Kwik Trip will meet setback.

Ezell asked if there was anyone in the audience supportive or neutral of the request. There was no public comment.

Ezell asked if there was anyone in the audience opposed to the request. There was no public comment.

c) **Variance Request #316024 Michael and Vicki Simich**

Michael and Vicki Simich of 7676 Teal Road, Woodbury, MN 55125, represented by Raymond Blesener of 4085 East Calvary Road, Duluth, MN 55803, have requested a variance to replace a nonconforming dwelling with a nonconforming dwelling on a nonconforming lot. The dwelling is nonconforming as it will not meet the required setback from the ordinary high water level (OHWL) and setback from the road right-of-way. The lot is nonconforming as it does not meet the required lot width and lot area for two dwellings. The property is described as Part of Lot 35 and Lot 36, Block 2 of Hanging Horn Lake Park Plat, Section 14, Township 46 North, Range 19 West on Hanging Horn Lake in Barnum Township. The property addresses are 4210 and 4212 Lake Road 2 (PIN 39-120-0820 and 0840).

Mike Simich was present to speak on his own behalf, along with Ray Blesener, Architect, 7676 E. Calvary Rd, Duluth, MN.

Simich stated that when he received a copy of Heather Cunningham's Development Review #316024 dated September 12, 2016, he was surprised to see her recommendation to deny request. He would like to work with Ms. Cunningham to amend the request and asked the Board to table his request tonight until he has time to address Cunningham's concerns and can submit his amended request.

Staff note: Zoning and Environmental Services Office received the following correspondence which has been placed with original file #316023:

- A mailed letter received on September 19, 2016, which is dated September 14, 2016, from Kim Lund, 4238 Lake Road 2, Moose Lake, MN 55767, in support of variance #316024 request.
- Email from Mike Simich dated Sunday, September 18, 2016, with request for clarification on 9 items and Heather Cunningham's response dated Sunday, September 18, 2016 with response to 9 items (red ink).

(10) The public hearing closed at 7:32 p.m.

(11) The Board of Adjustment meeting re-opened at 7:36 p.m.

**Variance Request #316022 Dan and Mary Janssen** Motion by Eskuri, seconded by Manninen and carried by all yeas votes to **GRANT** Variance #316022 and include those six conditions listed in Administrator Cunningham's Development Review dated September 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 applicant is requesting a reasonable use of the property that has been established*

*since before official zoning controls. The use of the property with a house and bunkhouse predates official zoning controls. The applicants have indicated the use of the garage/bunkhouse for sleeping quarters is less than 10 nights in the entire summer. The bunkhouse is not connected to water and will be replaced in the same footprint (square 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 construction and use of the dwellings before official zoning controls were in existence.*

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 applicants are proposing to replace an existing structure in the same footprint (square feet).*

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 would like to replace the existing garage/bunkhouse in the exact same footprint (square feet) as the current structure.*

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.*

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

6. The garage/bunkhouse must be located to meet the setback from the OHWL of Big Lake.

**Variance Request #316023 Kwik Trip** Motion by Manninen, seconded by Eskuri and carried by all yeas votes to **GRANT** Variance #316023 and include those seven conditions listed in Administrator Cunningham's Development Review dated September 14, 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. There has been a sign at this location since 1987, exceeding structure height 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 the topography and height/location of trees. The cutting of trees is restricted by the Minnesota Department of Transportation.*
3. If the variance is granted, it will not alter the essential character of the locality? *Yes. The height of this sign should not alter the character of the locality.*
4. Does the practical difficulty involve more than economic considerations? *Yes. It does not appear economic considerations constitute the practical difficulty for this request. It appears the practical difficulty is the topography and location of trees that cannot be removed.*
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 the C-2 Zoning District. Gas stations and on-site signs are both permitted uses in the C-2 Zoning District.*
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. The sign, including posts and panel area, must meet the 10 feet side yard setback.
6. The sign shall only advertise the business located on the subject parcel.

7. 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 #316024 Michael and Vicki Simich** Motion by Eskuri, seconded by Manninen and carried by all yea votes to **TABLE** Variance #316024 per applicant's request to allow him time to submit a revised plan.

(12) Other Business - none

(13) A motion was made by Eskuri, seconded by Manninen, and supported by all yea votes to close the Board of Adjustment meeting at 7:46 p.m.

Respectfully submitted,

Dave Hurst  
Acting Recording Secretary