

Draft
MINUTES OF THE CARLTON COUNTY BOARD
OF ADJUSTMENT MEETING
November 18, 2014

- (1) Chairman Hill called the Board of Adjustment meeting to order at 7:00 p.m.
- (2) Members Present: Jack Ezell, Tom Hill, Doug Suhonen, Jeff Vichorek, and Recording Secretary Bonnie Peterson
- (3) Motion by Suhonen, seconded by Vichorek, and supported by all yea votes to approve the October 21, 2014, Board of Adjustment meeting minutes with three changes.
- (4) Old business: None
- (5) Chairman Hill called the Public Hearing to order at 7:01 p.m.
- (6) Chairman Hill read that the legal ad was sent to the Star Gazette on October 30, 2014, and published in the Star Gazette on November 6, 2014.
- (7) Chairman Hill read the *Finality of Decisions*.
- (8) Chairman Hill read the *Findings of Fact to Grant a Variance from Zoning Ordinance 27-F*.
- (9) a) **Variance Request #314017 – Robert Manning**

Robert Manning of 1068 Alcohol Road, Wrenshall, MN 55797 was present to speak on his own behalf. Patricia Manning, Robert's mother, of 2140 Thell Road, Wrenshall, MN 55797 was also present to speak. The request is to subdivide a 30-acre parcel without having two sites available for Type 1 Sewage Treatment Systems.

The property is described as Part of the Northwest ¼ of the Northwest ¼ in Section 29, Township 48 North, Range 16 West in Silver Brook Township. The property address is 1068 Alcohol Road.

Rob Manning said they want to subdivide their property into separate the parcels and thus receive two separate tax statements.

Patricia Manning said this is their retirement home. They have a building up and are living on the same parcel as their son. They have all the permits and everything is there except the house which will be going there in the spring. They just want to subdivide the property.

Suhonen said that they have separate addresses with a common tax number.

P. Manning said this is correct.

P. Manning asked if it is better to leave this as it is or if it is better to separate the property. She just did not know.

Hill asked if there was only one house on the property.

Both Mannings clarified that there are two sites, two different addresses, but it is one parcel.

P. Manning said they have a steel building there with their camper in it. They have the sewer, well, and electrical there, but they did not have time to put in the house. All the permits are approved.

Suhonen said this request is for an approximate 420 feet by 311 feet three acre parcel. Correct?

R. Manning said yes.

P. Manning said if the parcel needs to be bigger, they can do that.

Hill then asked what the question is about the septic.

P. Manning said there was no question. It was approved. The mound system was put in bigger than required.

Hill further said that they need two applicable septic sites and that is what they need the variance for.

P. Manning said they did not ask for the variance. It was the County that brought it up. They want the variance to subdivide the land, but it was the County that brought up this request.

Hill said that to subdivide, they need two applicable sites for a regular system.

P. Manning said for a regular system, yes. So the County told them to put in a mound system. Apparently this is not an approved system.

Suhonen said there still has to be two acceptable sites even if it is a mound. He explained that he has 80 acres but he still had to prove there were two acceptable septic sites even though he has a mound.

P. Manning said she had not understood that part. She said the County came and investigated.

Vichorek asked if the three acre parcel was a buildable site and if this was the reason for the variance.

Peterson said the ordinance requires proof of two Type 1 septic sites. The soils are not suitable for a Type 1 system. To subdivide, the intent of the ordinance is not followed; however they were able to put in a mound which is an acceptable septic system for the County. The County has put in a lot of Type III systems.

Suhonen said Type III meaning a mound?

Peterson said yes.

Suhonen said the Mannings would still need proof of a second site. He said he was on the other end of this discussion at one time. If the mound failed, he could not just take it off and start over. He needed a separate site. Is this what the discussion is about tonight?

Peterson said the verbiage in the ordinance says Type 1. This is where the question comes in.

Vichorek said the question then is this. Should we agree to allow Mannings to put in a second mound system even though there are two inches, two inches, of unqualified soil? Is that it?

Hill said the depth of the soil is the reason a Type I system cannot be installed.

Suhonen said this board is not determining if a second sewer system can be installed on the property. That is up to the Zoning Office. This is not a function of this board.

Vichorek asked what they are doing with sewer systems. He does not think the board has a thing to say about them. Is that not a decision to be made by Heather and her bunch?

Hill said yes, but it is in the ordinance that you must have two acceptable septic sites to subdivide. The subdividing is the issue.

Suhonen said that R. Manning has a site of his own and P. Manning has a site. There are two working septic systems on the property.

Vichorek said that one site is a mound.

P. Manning said yes.

Vichorek said he does not understand.

Suhonen agreed and said it is up to the Zoning Office to determine if there is an acceptable septic site. Why is this board even considering it?

R. Manning said if the mound fails, the County is going to tell him where to put the new mound anyway.

Peterson said this is a dilemma because of the verbiage; the subdivision must be done properly through a variance to allow approval. The request is explained in Cunningham's conclusions in her development review.

Hill said they will get to the development review after the video.

Zoning and Environmental Services Heather Cunningham's video was reviewed.

Chairman Hill read Development Review #314017.

Hill asked if the Mannings had any problems with the listed conditions.

P. Manning said they had everything in place and all the permits approved. Then the County came back with this issue.

Hill said that was when they wanted to subdivide, right? This is what brought up all the questions?

P. Manning said that during the process a signature was missing and there were delays. In the process they had everything built and installed.

There were no questions from the board.

There were no questions or comments from the audience.

b) **Variance Request #314018 – Henry Scott**

Henry Scott of 9960 219th Street North, Forest Lake, MN 55025 was present with his representative, Cal Jacobson of Northstar Design and Build, Inc. of 6747 Pacific Street, Cromwell, MN 55726. The request is to construct a nonconforming garage on a nonconforming lot. The proposed garage is nonconforming as it will not meet the road setback. The lot is nonconforming as it does not meet lot width or lot area or requirements. The request also includes considering the lot buildable.

The property is described as Part of Government Lot 4 or Part of the Southwest ¼ of Southwest ¼ in Section 10, Township 48 North, Range 21 West in Lakeview Township on Tamarack Lake. The property address is 6549 Tabako Road.

Scott pointed out Administrator Cunningham found a question on the address. The correct property address is 6649 Tabako Road.

Jacobson said they are proposing to construct a 24 feet by 26 feet garage for storage and for a place to park his truck.

Hill asked how far this proposed building will be from the center of the road.

Jacobson said he measured it at 55 feet although Administrator Cunningham measured it at 52 feet. He said Tabako Road is a small private road with a 66 foot right of way.

Hill asked if there were questions from the board.

Zoning and Environmental Services Heather Cunningham's video was reviewed.

Chairman Hill read Development Review #314018.

Hill asked if there were any problems with the conditions.

Scott said not at all.

Suhonen asked if Scott had discussion with Cunningham regarding mitigation plans.

Scott said Cunningham was going to have one of her folks contact him. Mainly it would mean maintaining the wooded area. He said this is reasonable.

There were no further comments from the board.

There were no comments from the audience.

c) **Variance Request #314019 – Dan Stowell**

Dan Stowell of 8719 Carriage Hill Road, Savage, MN 55378 was represented by Lynn Stowell of the same address for property at 825 Lyndhurst Bay Drive, Cloquet, MN 55720. The request is to construct a nonconforming garage on a nonconforming lot. The proposed structure is nonconforming as it will not meet the setback from a platted road right of way and setback from the centerline. The lot is nonconforming as it does not meet the required lot width or lot area.

The property is described as Part of Government Lot 4 in Section 21, Township 49 North, Range 18 West in Perch Lake Township on Big Lake.

Since Dan and Lynn Stowell's previous variance request was denied, her husband sat down with Cunningham a couple times to revise their garage plans. She then explained their request to the board in detail including handouts, visuals and comparisons to their neighbors' structures.

L. Stowell brought up the comprehensive plan and compared it to how it relates to their request. She emphasized how putting their things inside would be better for the environment, and said it will cut back on vandalism.

Suhonen asked if the building would have a floor.

L. Stowell said it will be recycled asphalt.

Vichorek said that the previous request came down to a couple of items. The road setback was a big issue.

L. Stowell said the new proposal moves the building further from Lyndhurst Bay Drive and they shrunk the size of the building. They are now 24 feet from the centerline of Lyndhurst Bay Drive and 68 feet from the centerline of Brower Drive.

Vichorek said the previous request put the building 8 feet from the centerline. Now she is building a different size building that will be 24 feet from the centerline of Lyndhurst Bay Drive.

L. Stowell said this is correct.

Hill complimented Stowell on how well prepared she was for the meeting.

Suhonen said that through all this work they have moved the building as far as they can to meet setbacks.

L. Stowell said yes. They have a septic system that prevents them moving it farther.

Hill said they appreciate the flexibility of people when asking for variances. This is especially true when setbacks are involved. When people are rigid with their request, it makes decisions difficult for the board.

L. Stowell said they were not opposed to shrinking the building as long as they could make everything fit. Now they are close to tight, and Cunningham recommended they removed the shed. The shed is not really visible. It is tucked behind a building and cannot easily be seen from the lake. The extra space allows for inflatables and chairs. It is less than ½ percent of lot coverage.

Zoning and Environmental Services Heather Cunningham's video was reviewed.

Suhonen said that during Stowell's presentation, she made a comment about the comprehensive plan. The comprehensive plan establishes the rules that they have to go by. He personally sat on committees for three to five years to come up with this plan. This is why it is long and has to cover a lot of bases. It gives us our guidance, just so she knew where this came from.

L. Stowell apologized if she came across as negative. She said it was tough to decipher because it talked about new developments and communities while theirs appears patched. They were trying to make it cohesive with their property.

Chairman Hill read Development Review #314019.

Hill asked if there were any problems with the conditions.

L. Stowell said there were none.

Hill questioned a setback of 7 ½ feet. It was 24 feet to the centerline and 7 ½ feet to the right of way.

Ezell asked for clarification from the last meeting. The previous setback request was 8 feet to the centerline and has now been set back to 24 feet?

Suhonen said it was 8 feet from the centerline.

For the record Hill read two letters provided by L. Stowell. One was from Steve and Kerry Tomhave of 827 Lyndhurst Bay Drive, Cloquet, MN 55720 and the other was from Blair and Stacey Neameyer of 847 Brower Drive, Cloquet, MN 55720 stating their support of the project. Both letters were unsigned, and one had no date.

There were no further questions from the board.

(10) The public hearing closed at 7:59 p.m.

(11) The Board of Adjustment meeting was opened at 8:17 p.m.

Variance Request #314017 – Robert Manning

Motion by Suhonen, seconded by Vichorek and carried by all yeas votes to **GRANT** Variance #314017, and include those five conditions listed in Administrator Cunningham's Development Review dated November 12, 2014.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *Yes. Type III septic systems were installed in Carlton County 34 times in 2013.*
2. Is the variance consistent with the comprehensive plan? *Yes. Type III septic systems were installed and inspected in Carlton County.*
3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes. Type III septic systems were installed in Carlton County 34 times.*
4. Is the practical difficulty due to circumstances unique to this property? *Yes. Soil types and the clay loam at about 17 inches below ground surface create circumstances unique to this property.*
5. Is the need for the variance created by actions other than the landowner or prior landowners? *Yes.*
6. Will granting the variance (NOT) alter the essential character of the locality? *Yes. Type III septic systems were installed in Carlton County 34 times in 2013.*
7. Does the practical difficulty involve more than economic considerations? *Yes. The practical difficulty is related to the soil type and depth to a confining layer of soil.*

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 has not made application for subdivision to the Carlton County Zoning Office within 12 months of granting of variance.

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 properties shall not be subdivided further to establish additional home sites unless two sites for Type I septic systems are provided.

Variance Request #314018 – Henry Scott

Motion by Suhonen, seconded by Vichorek and carried by all yea votes to **GRANT** Variance #314018 and include those eight conditions listed in Administrator Cunningham’s Development Review dated November 12, 2014.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *Yes. It does not appear in conflict with the comprehensive plan as per the development review dated November 12, 2014.*
2. Is the variance consistent with the comprehensive plan? *Yes. It does not appear to be in conflict with the comprehensive plan as stated in the summary dated November 12, 2014.*
3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes. Development in the area is sparse, however most neighbors have garages.*
4. Is the practical difficulty due to circumstances unique to this property? *Yes. The practical difficulty is due to the angle of the shoreline as the lot meets width requirement.*
5. Is the need for the variance created by actions other than the landowner or prior landowners? *Yes. The angle of the shoreline limits location of the building.*
6. Will granting the variance (NOT) alter the essential character of the locality? *Yes.*
7. Does the practical difficulty involve more than economic considerations? *Yes. This is stated in the development review dated November 12, 2014.*

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.

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 shoreland mitigation plan will need to be submitted and approved as weather permits, but no later than June 1, 2015. The applicant shall institute the mitigation practices by June 1, 2016.
6. The garage shall be finished in earthtone colors (subdued shades of grays, browns, yellows, reds, tans, and greens).
7. The subject property shall be considered buildable without a variance as long as all applicable setbacks, impervious surface coverage and subsurface sewage treatment system standards are met.
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 #314019 – Dan Stowell

Moved by Suhonen, seconded by Ezell, and carried by all yeas votes to **GRANT** Variance #314019 including the seven conditions listed in Cunningham's Development Review dated November 12, 2014.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *Yes. The building has a proposed height of 17 feet so it will not be in conflict with the comprehensive plan.*
2. Is the variance consistent with the comprehensive plan? *Yes. The setback request is consistent with the neighbors.*
3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes. This variance request has more setback on both roads.*
4. Is the practical difficulty due to circumstances unique to this property? *Yes. The lot was created in 1923 prior to zoning controls.*
5. Is the need for the variance created by actions other than the landowner or prior landowners? *Yes. The lot was created in 1923 prior to zoning controls.*
6. Will granting the variance (NOT) alter the essential character of the locality? *Yes. There are other similar buildings in the neighborhood.*

7. Does the practical difficulty involve more than economic considerations? *Yes. The lot was created prior to 1923 and prior to zoning controls.*

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.
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 should implement best management practices for stormwater and snowmelt, as the structure is adjacent to the septic system and the road right-of-way.
6. The garage shall be finished in earthtone colors (subdued shades of grays, browns, yellows, reds, tans, and greens).
7. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

(12) There was no other business

(13) Motion by Ezell, seconded by Suhonen and carried by all yeas votes to adjourn the Board of Adjustment meeting at 8:23 p.m.

Respectfully submitted,

Bonita L. Peterson