

Draft
MINUTES OF THE CARLTON COUNTY
BOARD OF ADJUSTMENT MEETING
July 21, 2020

- (1) Chairman Ezell called the meeting to order at 7:00 p.m.
- (2) Members Present: Jack Ezell, John Manninen, Howard Eskuri, Thomas Skare (Alternate) and Recording Secretary Dave Hurst. Members Absent: None.
- (3) Motion by Eskuri, seconded by Manninen, and carried to approve the June 16, 2020, Board of Adjustment meeting minutes as amended.
- (4) Old business: None.
- (5) Chairman Ezell called the Public Hearing to order at 7:01 p.m.
- (6) Chairman Ezell read that the legal ad was sent to the Star Gazette on July 2, 2020, and published in the Star Gazette on July 9, 2020. The legal ad was sent to the Pine Knot on July 2, 2020, and published in the Pine Knot on July 10, 2020.
- (7) Chairman Ezell read the *Finality of Decisions* from Zoning Ordinance 27.
- (8) Chairman Ezell read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27.
- (9) Variances

a) **Variance Request #320012 – Todd Lilledahl**

Todd Lilledahl of 31375 Tyler Court NE, Cambridge, MN 55008 has requested a variance to convert an existing nonconforming garage into a dwelling by constructing an addition and screen porch. The garage is considered nonconforming as it does not meet the required setback from the road centerline. The property is described as the South ½ of the North ½ of the Southeast ¼ of the Northeast ¼ in Section 17, Township 46 North, Range 19 West in Moose Lake Township. The property address is 4167 North Road (PIN 63-022-1430).

Todd Lilledahl was present to speak on his behalf. He said he would like to add on twelve feet to the south end of the building to create a bathroom and bedroom. The screen porch would go on the west side of the building. He said they would like to use this for five to six years and then eventually build a home on the property. He said this would give them a place to stay until the home is built.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. Lilledahl narrated the video.

Ezell asked if the Board had any questions.

Ezell read Heather Cunningham's Development Review #320012 dated July 16, 2020.

Ezell read the four conditions listed in the development review and asked if the applicant understood and was okay with those four conditions. Mr. Lilledahl said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

b) **Variance Request #320013 – Jacob Line**

Jacob Line of 1128 Rosicky Road, Cromwell, MN 55726 has requested a variance to allow an after-the-fact addition onto a nonconforming agricultural accessory structure (barn). The barn is considered nonconforming as it does not meet the required setback from the road centerline. The property is described as Part of the Southwest ¼ of the Southwest ¼ in Section 29, Township 49 North, Range 20 West in Red Clover Township. The property address is XXXX Rosicky Road (PIN 96-010-4630).

Jacob and Channing Line were present to speak on their behalf. Mrs. Line said they added onto an existing barn for machine and hay storage. She said they started construction last year on the barn addition.

Ezell asked if the new building was any closer to road. Mrs. Line said no, it's further away from the road.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. and Mrs. Line narrated the video.

Ezell read Heather Cunningham's Development Review #320013 dated July 16, 2020.

Ezell read the four conditions listed in the development review and asked if the applicant understood and was okay with those four conditions. Mr. Line said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

c) **Variance Request #320015 – David Jezierski**

David Jezierski of 4160 County Road 61, Moose Lake, MN 55767 has requested a variance to construct an addition onto a dwelling and allow after-the-fact hoop shed, tin shed, storage shed and metal storage container all on a nonconforming lot. The lot is considered nonconforming as it does not meet the required lot area. The request also includes considering the lot buildable in the future as long as setback, septic and lot coverage requirements are met. The property is described as Lots 1, 2 and 3, Block 1 of Agateville Plat along with the adjacent vacated Nord Avenue, Park Street and ½ of Riverside Drive in Section 15, Township 46 North, Range 19 West in Moose Lake Township. The property address is 4160 County Road 61 (PIN 63-030-0020, 0040 and 0060).

David Jezierski was present to speak on his behalf. He said they have one bedroom that is only eight feet by fourteen feet and a living room that is only eight feet by ten feet. He said he would like to add six feet onto the house to make the bedroom and living room bigger. He said they are not adding an extra bedroom, the house will remain a two bedroom home, they are only enlarging a bedroom and living room.

Ezell asked Mr. Jezierski if he knew that permits were required for the sheds and container. Mr. Jezierski said that his brother's neighbor in Barnum told him permits were not needed for non-permanent structures. He needed a place to store his snow blower, snowplow, and yard equipment. He said eventually they would like to put up a garage.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mr. Jezierski narrated the video.

Ezell read Heather Cunningham's Development Review #320015 dated July 16, 2020.

Ezell read the five conditions listed in the development review and asked if the applicant understood and was okay with those five conditions. Mr. Jezierski said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

d) **Variance Request #320016 – Melody and Karl Pechous**

Melody and Karl Pechous of 17275 Blackbird Trail, Hastings, MN 55033 have requested a variance to construct a nonconforming garage. The garage is considered nonconforming as it does not meet the required setback from the road right-of-way. The subject property is considered legal, nonconforming. The subject property is described as Lot 16 of Wood Haven Plat in Section 18, Township 48 North, Range 20 West on Eagle Lake in Eagle Township. The property address is 1812 Freeman Point Road (PIN 90-270-0320).

Melody Pechous was present to speak on her behalf. She said the garage needs to go in this location so they can fit a drainfield on the property in the future.

Ezell asked if the Board had any questions.

Zoning and Environmental Services Administrator Heather Cunningham's video was viewed. Mrs. Pechous narrated the video.

Ezell read Heather Cunningham's Development Review #320016 dated July 16, 2020.

Ezell read the six conditions listed in the development review and asked if the applicant understood and was okay with those six conditions. Mrs. Pechous said yes.

Ezell asked if anyone in the audience was neutral or in support of this request. There was no response.

Ezell asked if anyone in the audience was in opposition of this request. There was no response.

(10) The public hearing closed at 7:49 p.m.

(11) The Board of Adjustment meeting re-opened at 7:56 p.m.

Variance Request #320012– Todd Lilledahl

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and four conditions as amended by the Board of Adjustment listed on Carlton County Findings of Fact Worksheet dated July 21, 2020, and signed by Board Chair Ezell.

FINDINGS OF FACT:

a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*
Yes No Why or why not?

It appears the applicant is proposing a reasonable use of the property. The applicant is proposing an addition to convert the garage into a dwelling. The proposed addition will not encroach any further on the setback requirements.

b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*
Yes No Why or why not?

The practical difficulty appears to be the development of the property (dwelling) prior to official controls.

- c. *If the variance is granted, it will not alter the essential character of the locality?*
Yes No *Why or why not?*

The granting of the variance should not alter the essential character of the locality. There appears to be at least one other structure along North Road that does not meet the setback requirements to the centerline of the road.

- d. *Does the practical difficulty involve more than economic considerations?*
Yes No *Why or why not?*

It does not appear that economic considerations constitute the practical difficulty for reasonable use for this property. The practical difficulty appears to be the development of the property (dwelling) prior to official controls.

- e. *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 No *Why or why not?*

The variance will not be granting a use that is not allowed within the A-2 Zoning District. The use will be recreation/residential.

- f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*
Yes No *Why or why not?*

The Carlton County Community-Based Comprehensive Plan addresses setbacks from roadways. Road setbacks are primarily a public safety and maintenance issue. The setback allows for clear zones for traffic, snow removal, and maintenance, as well as emergency vehicles (police, fire and ambulance) to be able to properly travel and provide service through the area. This office is not aware of any past issues with a reduced setback for the existing garage.

DECISION:

If ALL answers are YES by a majority of the Board of Adjustment, the criteria for granting of the Variance have been met and the Variance is approved. Please confirm with the applicant that the following conditions are acceptable.

Granted: Convert an existing nonconforming garage into a dwelling by constructing an addition and screen porch.

Denied:

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as amended by the Board of Adjustment.
2. The applicant must have an approved zoning permit within one year. All work must begin within one year of issuance of the zoning permit. This means that there is enough of the structure(s) in place to determine that it meets the dimensions depicted on the zoning permit. If this condition is

not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.

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.

Variance Request #320013 – Jacob Line

A motion was made by Manninen, seconded by Eskuri, and carried to **Approve** the findings of fact, decision, and four conditions listed on Carlton County Findings of Fact Worksheet dated July 21, 2020, and signed by Board Chair Ezell.

FINDINGS OF FACT:

- a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*
Yes No Why or why not?

It appears the applicant is proposing a reasonable use of the property. The applicant would like to retain an addition onto a barn. It appears that this location is the most reasonable due to the location of a ditch and the need for accessibility for agriculture.

- b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*
Yes No Why or why not?

The practical difficulty appears to be the construction of the barn when the setback was only 68 feet to the road centerline. The barn was also constructed closer to the centerline than what was permitted. In addition, due to the nature of the building, it needs to be accessible for agriculture.

- c. *If the variance is granted, it will not alter the essential character of the locality?*
Yes No Why or why not?

The construction of the addition should not alter the essential character of the locality. The existing barn was constructed under a previous ordinance that allowed a reduced setback. There is at least one other agricultural structure located closer to the centerline than the ordinance allows.

- d. *Does the practical difficulty involve more than economic considerations?*
Yes No Why or why not?

It does not appear that economic considerations constitute the practical difficulty for reasonable use of this property. The practical difficulty is the development of the property under different zoning standards. In addition, this location is the most reasonable due to the location of a ditch and the need for accessibility for agriculture.

- e. *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 No Why or why not?

The variance will not be granting a use that is not allowed within the A-2 Zoning District. The use will be agriculture, a permitted use.

f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*

Yes No Why or why not?

The Carlton County Community-Based Comprehensive Plan specifically addresses setbacks from roadways. Road setbacks are primarily a public safety and maintenance issue. The setback allows for clear zones for traffic, snow removal, and maintenance, as well as emergency vehicles (police, fire and ambulance) to be able to properly travel and provide service through the area. This office is not aware of any past issues with a reduced setback.

As this request is an after-the-fact, additional factors are considered:

i. *Why did the applicant fail to obtain a variance, and did the applicant act in good faith;*

The applicant indicated verbally that he was not aware he needed a variance or zoning permit.

j. *Did the applicant attempt to comply with the law by obtaining permits;*

The applicant is attempting to comply by the submission of this after-the-fact variance request.

k. *Did the applicant obtain a permit from another entity that violated the law;*

It does not appear that the applicant obtained a permit from another entity that violated the law.

l. *Did the applicant make a substantial improvement in the property;*

The applicant made a substantial improvement to the property with the addition.

m. *Did the applicant complete repairs, construction before the applicant was informed of the impropriety;*

The applicant completed the construction before he was informed of the impropriety.

n. *Is the nature of the property residential/recreational and not commercial;*

The nature of the property is agricultural.

o. *Are there similar structures in place;*

It appears there are similar structures in place in the locality as noted above.

p. *Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced?*

The benefits of moving the addition do not outweigh the detriment to the applicant.

DECISION:

If ALL answers are YES by a majority of the Board of Adjustment, the criteria for granting of the Variance have been met and the Variance is approved. Please confirm with the applicant that the following conditions are acceptable.

Granted: Allow an after-the-fact addition onto a nonconforming agricultural accessory structure (barn).

Denied:

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as amended by the Board of Adjustment.
2. The applicant must have an approved zoning permit within one year. All work must begin within one year of issuance of the zoning permit. This means that there is enough of the structure(s) in place to determine that it meets the dimensions depicted on the zoning permit. If this condition is not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.
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.

Variance Request #320015 – David Jezierski

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and five conditions listed on Carlton County Findings of Fact Worksheet dated July 21, 2020, and signed by Board Chair Ezell.

FINDINGS OF FACT:

a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*
Yes No *Why or why not?*

It appears the applicant is proposing a reasonable use of the property. The applicant would like to construct an addition and retain four accessory structures. All of the structures will meet setback requirements. The deck will not encroach any further on the road setback. It seems reasonable to allow the lot to be considered buildable as setback requirements can be met.

b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*
Yes No *Why or why not?*

The practical difficulty appears to be the creation of the lot prior to official controls.

c. *If the variance is granted, it will not alter the essential character of the locality?*
Yes No *Why or why not?*

The construction of the addition and retention of the accessory structures should not alter the essential character of the locality. The addition and accessory structures are not encroaching on setback requirements. There are several lots in this locality that do not meet lot area or lot width requirements.

d. *Does the practical difficulty involve more than economic considerations?*
Yes No *Why or why not?*

It does not appear that economic considerations constitute the practical difficulty for reasonable use of this property. The practical difficulty appears to be the creation of the lot prior to official controls.

e. *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 No *Why or why not?*

The variance will not be granting a use that is not allowed within the A-2 Zoning District. The use will be residential.

f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*
Yes No *Why or why not?*

The Carlton County Community-Based Comprehensive Plan does not specifically address lot size. The plan does encourage development that results in a sustainable use of natural resources and development this is contiguous with existing development.

As this request is an after-the-fact, additional factors are considered:

i. *Why did the applicant fail to obtain a variance, and did the applicant act in good faith;*

The applicant indicated verbally that he was not aware he needed a variance or zoning permit for the accessory structures.

j. *Did the applicant attempt to comply with the law by obtaining permits;*

The applicant is attempting to comply by the submission of this after-the-fact variance request.

k. *Did the applicant obtain a permit from another entity that violated the law;*

It does not appear that the applicant obtained a permit from another entity that violated the law.

l. *Did the applicant make a substantial improvement in the property;*

The applicant made a substantial improvement to the property with the accessory structures.

m. *Did the applicant complete repairs, construction before the applicant was informed of the impropriety;*

The applicant completed the construction before he was informed of the impropriety.

n. *Is the nature of the property residential/recreational and not commercial;*

The nature of the property is residential.

o. *Are there similar structures in place;*

It appears there are similar lot sizes in the locality as noted above.

p. *Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced?*

The benefits of moving the addition do not outweigh the detriment to the applicant.

DECISION:

If ALL answers are YES by a majority of the Board of Adjustment, the criteria for granting of the Variance have been met and the Variance is approved. Please confirm with the applicant that the following conditions are acceptable.

Granted: Construct an addition onto a dwelling and allow after-the-fact hoop shed, tin shed, storage shed and metal storage container.

Denied:

CONDITIONS:

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as amended by the Board of Adjustment.
2. The applicant must have an approved zoning permit within one year. All work must begin within one year of issuance of the zoning permit. This means that there is enough of the structure(s) in place to determine that it meets the dimensions depicted on the zoning permit. If this condition is not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.
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.
5. The lot is considered buildable in the future as long as setback, septic and lot coverage requirements can be met.

Variance Request #320016 – Melody and Karl Pechous

A motion was made by Eskuri, seconded by Manninen, and carried to **Approve** the findings of fact, decision, and six conditions listed on Carlton County Findings of Fact Worksheet dated July 21, 2020, and signed by Board Chair Ezell.

FINDINGS OF FACT:

a. *Is the property owner proposing to use the property in a reasonable manner not permitted by this Ordinance?*

Yes No *Why or why not?*

The applicant is proposing a reasonable use of the property with the construction of a garage. However, the property currently has three sheds and this office recommends the two sheds between the garage and the road are removed.

b. *Is the practical difficulty unique to the subject property and not created by the property owner or prior property owner?*

Yes No *Why or why not?*

It appears the practical difficulty in meeting the ordinance requirements is the creation and development of this plat prior to official controls.

c. *If the variance is granted, it will not alter the essential character of the locality?*

Yes No *Why or why not?*

The granting of the variance should not alter the essential character of the locality. Most of the garages along Freeman Point Road encroach on the setback requirements.

d. *Does the practical difficulty involve more than economic considerations?*

Yes No *Why or why not?*

It does not appear that economic considerations constitute the practical difficulty for reasonable use of this property. The applicants would like a detached garage rather than several small sheds.

e. *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 No *Why or why not?*

The variance will not be granting a use that is not allowed within the R-1 Zoning District. The use will be residential.

f. *Are the terms of the variance consistent with the Carlton County Community-Based Comprehensive Plan?*

Yes No *Why or why not?*

The Carlton County Community-Based Comprehensive Plan addresses setbacks from roadways. Road setbacks are primarily a public safety and maintenance issue. The setback allows for clear zones for traffic, snow removal, and maintenance, as well as emergency vehicles (police, fire and ambulance) to be able to properly travel and provide service through the area. This office is not aware of any past issues with a reduced setback.

DECISION:

If ALL answers are YES_by a majority of the Board of Adjustment, the criteria for granting of the Variance have been met and the Variance is approved. Please confirm with the applicant that the following conditions are acceptable.

Granted: Construct a nonconforming garage.

Denied:

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 applicant must have an approved zoning permit within one year. All work must begin within one year of issuance of the zoning permit. This means that there is enough of the structure(s) in place to determine that it meets the dimensions depicted on the zoning permit. If this condition is not met, the request shall be deemed null and void. The Zoning Administrator is authorized to extend that period of time for good cause shown.
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 two sheds located between the dwelling and the road shall be removed within two years of the construction of the garage.
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. Ezell read a letter from Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee in regards to their concern with over development on Big Lake. The Band opposes all development on Big Lake that does not comply with all applicable zoning rules.

(13) A motion was made by Eskuri, seconded by Manninen, and supported by all yea votes to close the Board of Adjustment meeting at 8:01 p.m.

Respectfully submitted,

Dave Hurst
Recording Secretary