

**Official Minutes of the Board of Adjustment
Law Enforcement Center
July 1, 2019**

Approved as submitted
8/12/2019

The Lake County Board of Adjustment sat in session on this date in the Law Enforcement Center.

Members Present: Ron Brodigan, Jon Fogelberg, Bob Sanders, and Mike Hoops (alternate)

Members Absent: None

Planning and Zoning staff present: Christine McCarthy (Environmental Services Director), Jill Paron (Environmental Services Specialist)

Chair Jon Fogelberg opened the meeting at 5:00 p.m. and explained the hearing process.

The first hearing, **V-19-006**, was a variance application filed by **Randall Carter** which if approved, would allow after-the-fact relief from the shoreline setback to rebuild a non-conforming deck, Section 28.03; MN State Statute 394.36 Subd. 4 where the grandfathered non-conforming deck had less than 50% of the required setback at 5096 W. Kane Lake Rd, Two Harbors on property described as: Lot 1 of Lot 2 of Hiltunen O'Jays Evergreen Division, Section 31, Township 56, Range 10, .20 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Silver Creek Township.

Randy Carter represented the application. He stated he rebuilt the deck in 2012 or 2013. Our office informed him recently that he needed a Land Use Permit and Variance. He described the old layout of the cabin as submitted with his Variance application. He explained he rebuilt the deck so it is against the cabin. The footprint changed, but not the square footage. He didn't realize it would require permits.

McCarthy gave the staff report and legal requirements. There were 2 comments in favor. McCarthy stated that she is in support of the changes, although it is an after-the-fact. Fogelberg instructed the Board to consider the application as if the work had not already been done.

There was general discussion about the changes that were made between the old and new deck.

Motion by Sanders supported by Brodigan to approve the variance as submitted.

The test questions were applied with the following findings:

Findings:

1. **Is the variance in harmony with the general purposes and the intent of the official control and consistent with the Comprehensive Plan?** Yes; This is replacement of a grandfathered, non-conforming deck.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; replacement of the deck is reasonable
3. **Is the practical difficulty due to circumstances unique to the property?** Yes; small lot, created before zoning.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the original was built before zoning.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; the new deck is an improvement from the previous deck.
6. **Does the practical difficulty involve more than economic considerations?** Yes; small lot is the practical difficulty
Additional Findings of Fact to support/deny an after-the-fact variance request:
7. **Did the applicant act in good faith and attempt to comply with the law by obtaining the proper permits?** Yes; once applicant was notified of violations he made an effort to comply.

8. **Did the applicant make a substantial investment in the property and complete the repairs/construction before the applicant was informed of the impropriety?** Yes.
9. **Are there similar structures in the area?** Yes.
10. **Would the benefit to the County appear to be far outweighed by the applicant's burden if the applicant were required to comply with the Ordinance?** No; the aesthetics have been improved.

The motion passed by unanimous vote.

Motion by Brodigan supported by Sanders to approve the June 10, 2019 minutes as submitted. Motion passed by unanimous vote.

There being no further business, motion to adjourn the meeting made by Brodigan supported by Sanders. Motion passed by unanimous vote.

Respectfully submitted,

Christine McCarthy
Environmental Services Director