

**Official Minutes of the Board of Adjustment
Law Enforcement Center
April 8, 2019**

Approved as submitted
5/14/2019

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), Neva Maxwell (Land Use Specialist) and Jill Paron (Environmental Services Specialist).

Other County Staff present: Russ Conrow (County Attorney). Conrow left the meeting at 6:10.

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

The first hearing, **V-19-001**, was a variance application filed by **Pamela and Michael Turnbull**, which if approved, would allow relief from the side-yard setback to construct a garage at 188 Winton Point Rd., Ely, on property described as: .76 acres out of Lot 3 A Desc. In Bk 123 of Deeds pg. 599 and that part of Lot 3 as desc. In Doc A000177140 in Section 19, Township 63, Range 11, 2.34-acres, zoned Residential-Recreational/R-R, 1-acre minimum, Fall Lake Township.

The application was represented by Pamela Turnbull. Turnbull explained their request to tear down an old non-conforming garage which partially encroaches on the neighbors' property. They would like to replace it with a garage with no setback to the neighbors' property line.

McCarthy gave the staff report and legal requirements. There was one item of correspondence in opposition to the request from the neighbor whose property line is involved in the request.

Fogelberg opened the meeting to public comments. There was no one present to speak in favor. Mr. Alan Palkowski spoke against. He stated they have other areas on their property to place a garage. He also disputed the ending point of Winton Point Rd. and believes the access road that leads to their properties is part of Winton Point Road and not a driveway.

Maxwell explained that Planning and Zoning staff had several conversations with Fall Lake Township Supervisors regarding the ending point of the road. Also, Turnbull provided deeds that refer to the roadway and "lanes or ways" for ingress and egress to what are now the Turnbull and Palkowski properties.

McCarthy asked Palkowski what his concerns are. He expressed concern over water runoff from the garage onto his property and the setback from the road.

Fogelberg closed the public comment period.

Sanders asked if there is anyway to provide some setback from the property line. Turnbull explained that they need to maintain access to the fuel tank which is at the back of the house.

Hoops expressed concern with being at the property line because it doesn't leave access to the back of the garage for maintenance and runoff will go onto neighbors' property.

Fogelberg stated the eaves need to remain within the property boundary. Brodigan asked what other options they have.

Turnbull stated the eaves would be at the property line, not the floor. She explained this is a smaller garage than the one they are removing so they can make it fit. They also have to stay back from the well at the front of the house.

Fogelberg asked about having room on the other side of the driveway. Turnbull stated

they want the garage to be close to the house. She explained Fall Lake Township uses the driveway to turn snowplows around and they push the snow on that side against the hill.

Turnbull provided a survey that shows the other side of their parcel. Staff and the Board reviewed the survey. McCarthy stated she wants to keep structures away from the lake.

Hoops asked if it was possible to attach the garage to the front of the house. Turnbull stated they have considered the option, but they also have to allow access to the fuel tank. McCarthy asked if it could be moved. Turnbull stated it is a fuel oil tank that is in the basement.

Brodigan asked Turnbull to sketch the attached garage option on the whiteboard.

There was additional discussion about options. Fogelberg stated that they need to see what buildable area actually is existing on the whole parcel.

Motion by Brodigan supported by Sanders to table the variance until the May 13, 2019 meeting. Motion passed by unanimous vote.

The second hearing, **V-19-002**, was a variance application filed by **Douglas Smith** which if approved, would allow relief from the side-yard setback for an existing garage and relief from the lake setback for a deck at 13216 Mushroom Island Rd., Ely, on property described as: that part of Lot 3 as desc. in Cert. of Titles 37 pg 150, Section 6, Township 62, Range 11, .63 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Fall Lake Township.

The application was represented by Douglas Smith. He explained that he bought the property in 2015 with the garage and deck existing. He had a variance granted in 2016 to build an entryway. He was residing the house when he discovered issues with the deck not being properly flashed which led to rotting where it attached to the house. He had to

remove the deck, which was built without a permit by previous owner and encroached into the lake setback. When he applied for the variance, Planning and Zoning staff discovered the garage, which encroaches on the side-yard setback, was never permitted. He built a lean-to off the back of the garage without realizing that required a permit. He is requesting a deck 12' wide along the back of the house, which will be 4 feet shorter than previous deck. This will allow him to use the existing footings. If he builds a deck within the setbacks he will have to dig new footings which will cause soil disturbance.

Smith explained they are trying to make the house less visible from the lake by putting on darker siding and planting shrubs along the lake. They also mow less lawn than what was existing.

McCarthy gave the staff report and legal requirements. There was no correspondence.

Maxwell explained that the garage was built by the previous owner without a permit or variance and this wasn't discovered during Smith's previous variance request.

Brodigan suggested removing only the corner of the deck that would be in the setback.

[Russ Conrow leaves the meeting]

Hoops asked about the age of the deck that was removed. Maxwell stated that is unknown since it was never permitted. Smith stated he thought it was most likely original with the house in 1995.

Sanders asked for more information regarding footings. Smith explained that by building a 12' deck they could use existing footings, to keep the deck in the setback would require digging new footings.

Maxwell explained there have been no complaints regarding the garage and attached lean-to woodshed. Also, it is below the grade of the neighboring property and not very

visible. She also expressed that considering the site, the deck is not an unreasonable request.

Motion by Sanders supported by Brodigan to approve the variance as submitted no conditions:

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; garages and woodsheds are necessary in our climate and the deck is not unreasonable.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; a garage is a reasonable request as is a deck on a lake property.
3. **Is the practical difficulty due to circumstances unique to the property?** Yes; the garage and deck were existing when the applicant bought the property.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** No; the actions are caused by the previous owner who built without permits.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; similar uses exist in the area.
6. **Does the practical difficulty involve more than economic considerations?** Yes; these are existing issues the applicant wants to remedy.

The motion passed by unanimous vote.

Motion by Brodigan supported by Sanders to approve the December 18, 2018 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