

**Official Minutes of the Board of Adjustment
Law Enforcement Center
May 13, 2019**

Approved with
corrections 6/10/19

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) and Neva Maxwell (Land Use Specialist).

Other County Staff present: Russ Conrow (County Attorney).

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

The first hearing, **V-19-005**, was a variance application filed by **Louisiana- Pacific Corp.** which if approved, would allow relief from the height limit of 35 feet for a structure for a building addition at 711 25th Avenue, Two Harbors. on property described as: that part of NE ¼ of SE ¼ as desc. in BK 95 of Deeds pg. 203, Section 25, Township 53, Range 11, 22.69 acres, zoned M/Manufacturing District, one-acre minimum, Unorganized Territory 2. PID: 25-5311-25800

The application was represented by Chris Kruse, Lake Superior Consulting. He explained the building expansion is to tie into the existing building that is 53ft in height. It will not be visible from the road.

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

Erik Menge provided general history on the building and previous variances. He also explained this is required to fit equipment inside the building and decrease the occurrence of plant shut-downs.

Brodigan stated this would be just below the existing roof and there are no shoreland issues.

McCarthy stated this building is in an industrial park in the Manufacturing Zone.

Motion by Brodigan supported by Sanders 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; The building is in an industrial park in the Manufacturing Zone and there are no nearby waterbodies.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes;
3. **Is the practical difficulty due to circumstances unique to the property?** Yes; the addition is onto an existing building with a variance for the height.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** No; Louisiana-Pacific built the existing building with a variance for the height.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; it is an industrial park.
6. **Does the practical difficulty involve more than economic considerations?** Yes; the addition needs to tie into the existing building.

The motion passed by unanimous vote.

The second hearing, **V-19-004**, was a variance application filed by **Paul Holden** which if

approved, would allow relief from Lake County Subdivision Ordinance #9, Article 4, Section 4.01 (B): A parcel or quarter-quarter section can be divided to create up to a maximum of 4 parcels (this does not include the residual parcel) with a survey signed by a licensed surveyor. . . *and no new road is created* on property described as: Gov't Lot 8 including all that part of vacated Gondreau Plat, Section 27, Township 62, Range 11, 26.89 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Fall Lake Township. PID:28-6211-27790.

The application was represented by Paul Holden and Walt Van Den Heuvel. Van Den Heuvel explained they tried to pursue an administrative subdivision and believed the access was considered an existing road. He explained that in the 1950's roads were created on Government Lots 8 and 7 by International Nickel to provide access for bulk sampling for mining. It is his opinion that no new road is being created as part of this lot split. The plan is for big lots, that could be split again. He stated Holden would like to do an Administrative Subdivision as he did on the adjacent Lot [Gov't Lot 9].

McCarthy gave the staff report and legal requirements. There was no correspondence. McCarthy clarified that this involves Government Lots 8 and 9, not 7 and 8. McCarthy referred to the map of the Government Lot 9 Administrative Subdivision completed in 2018. She stated the access is considered a driveway, as it accesses 4 lots. She explained when Holden did the Government Lot 9 subdivision she asked him about his plans for Lot 8. Holden didn't want to go through the platting process. She told him he would have to access Lot 8 from another direction to be able to do an Administrative Subdivision on Lot 8. They discussed accessing Lot 8 from the forest road because that would only be accessing 4 lots and still be considered a shared driveway. If he used the Lot 9 access for Lot 8, it would now be considered a road and require platting.

McCarthy asked Holden how many lots he wanted to create on Lot 8. Holden stated 4 lots plus the residual for 5 lots total. McCarthy explained the issue is Holden wants to access Lot 8 using the access through Lot 9. This would require a new road, and the process then becomes a plat rather than an Administrative Subdivision.

Fogelberg asked for clarification of the roads drawn on the map in their packets. Maxwell pointed out the access going into Lot 9 from the SE corner; the U.S. Forest Service road that used to access Endless Waters Resort from the southern boundary of Lot 8, and the access from International Nickel in question that leads from Lot 9 into Lot 8. Fogelberg asked if all were existing roads. McCarthy stated it is the access from Lot 9 into 8 [created by International Nickel for mining exploration] that she does not recognize as a road. However, the access into Endless Waters Resort is an existing road which could be used for purposes of an Administrative Subdivision which requires no new road is created.

McCarthy explained that Gov't Lots 8 and 9 are in the Residential-Recreational Zone, one-acre minimum lot with a 200-foot lot width minimum. This means any lots created could be further subdivided. She explained this is why plats are used for this type of subdivision. It is also to ensure that roads meet a standard necessary for the amount of traffic created.

McCarthy asked for an explanation as to why the U.S. Forest Service road can't be used to access Lot 8. Holden and Van Den Heuvel explained there are potential wetland impacts and also difficulty getting an easement from the U.S. Forest Service. They also explained that the access from the Endless Waters resort is not a good road, it is narrow and also crosses private property.

McCarthy made the request, if the variance is approved, that there be a condition that any further subdivision on Lot 8 and/or 9 be required to go through a plat. She also

requested a condition for a road association and a Type 4 road (serving less than 20 lots).

Brodigan asked what the difference is between the Administrative Subdivision and a Plat regarding money and time. Holden replied that Ted Floyd from Bear Island Surveying estimated \$30,000 for a Plat and \$5000 for the Administrative Subdivision. He stated platting would also require a wetland delineation, mylars, and lawyers to review documents.

McCarthy explained that there is nothing to prevent the owners of the new lots from subdividing because it is a one-acre minimum. She also explained that doing the platting process now would mean further subdivision would require a replat.

There was general discussion about the platting process. Holden stated he was okay with the stipulation of no further subdivision without a plat.

Conrow clarified the request being considered. He stated the Administrative Subdivision has 4 or 5 requirements, one of them being you cannot create a new road. McCarthy read from the Subdivision Ordinance #9, Article 4, Section 4.01, Part A) *New road being defined for the section as a way constructed after the adoption of the ordinance that serves more than 4 dwellings or buildable parcels.* Conrow stated there may have been a road there historically, but now that he wants to create more than 4 lots, he needs to do a plat. McCarthy stated the request is relief from this requirement. Conrow stated that once the [Gondreau Plat] was vacated, the road went away. Holden asked what International Nickel created if it wasn't a road. Conrow stated what they created didn't serve 4 lots, it was an exploratory driveway. Conrow stated he has to use the definition of a road used in the Administrative Subdivision. Conrow stated what was there before was not a road according to this section of the Ordinance because it didn't serve more than 4 parcels before the adoption of the Ordinance [2006]. Conrow asked if the road has been used to

access the vacated plat in the last 15 years. Holden answered no, because nothing was ever done with that plat.

There was discussion regarding unrelated Administrative Subdivisions that Ted Floyd had done. McCarthy explained those subdivisions were not similar, either the road already existed or only one lot was created.

Holden stated he bought Lots 8 and 9 with the [Gondreau Plat], but he was able to vacate the plat because none of the lots were ever sold or developed. Conrow stated the road didn't serve any other lots.

Holden stated he has a recorded Road Association for Lot 9, he named it Big Timber Trail. Conrow asked if it had a name prior to being named Big Timber Trail. Holden answered no, he created it when he did the first Administrative Subdivision. Conrow asked, if Holden created the road, how was it existing prior to that? Holden stated he owned the property; he created a Road Association and a 66-foot wide easement. Conrow asked if the 66-foot wide easement was there before. Holden said no. Conrow stated there was no road on paper before then. Holden said there wasn't.

Fogelberg expressed confusion over the application and submitted correspondence. McCarthy stated she hasn't mentioned the correspondence with Ted Floyd because his information is inaccurate and unrelated to this request. McCarthy stated the issue is the road. Holden stated he is requesting being able to access Lot 8 using the same road [he created] or else he has to use the existing forest road that enters Lot 8 from the south.

There was general discussion about road standard, the number of lots being accessed, and the options for accessing Lot 8. McCarthy also restated the issue is the number of lots being accessed and the requirement for a road to access the number of lots proposed. The Administrative Subdivision cannot be used when a new road has to be created.

There was general discussion regarding the requirements for a road association and road standard requirements. Conrow stated these are things addressed in the platting process.

Sanders recused himself from the vote due to concerns with the conditions of approval and if they would be enforced. Brodigan asked if the conditions are enforced. McCarthy explained that with variances, and application must be submitted within 3 months, or the variance approval goes away. Conrow stated the test questions are what need to be used to determine if relief from the platting requirement is or isn't granted. McCarthy stated she had asked earlier about the other 2 options for access, and after discussion it sounded like those were not going to work.

Fogelberg directed the BOA to the final test question "Does the practical difficulty involve more than economic considerations?" He stated the platting process is considerably more expensive than an Administrative Subdivision. He stated he couldn't find any other practical difficulty. Holden explained platting has a longer time frame.

Fogelberg called for a motion.

Motion by Hoops supported by Brodigan to approve the variance with 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; Lakeshore development is standard in the County.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; this is a reasonable use of property.

3. **Is the practical difficulty due to circumstances unique to the property?** Yes; there was historical use on this parcel.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** No; there are wetlands that would affect other access points.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; it will result in development.
6. **Does the practical difficulty involve more than economic considerations?** Yes; they would need to locate another access.

Conditions:

1. No further subdivision of Government Lots 8 and 9 without going through a plat.
2. Type 4 road approved by the Highway Engineer.
3. Must have a road association.

The motion passed by unanimous vote.

Motion by Brodigan supported by Sanders to approve the April 8, 2019 minutes as submitted. Motion passed by unanimous vote.

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

Respectfully submitted,

Christine McCarthy
Environmental Services Director