

**Official Minutes of the Board of Adjustment
Lake County Service Center
June 8, 2020**

Approved as submitted
8/10/2020

The Lake County Board of Adjustment sat in session on this date at 5:00 P.M to conduct hearings and other business. Due to closure of all County buildings due to Covid-19, the hearings were held via *Zoom* virtual meeting and teleconference.

Members present: Jon Fogelberg,
Present remotely via Zoom: Ron Brodigan,
and Mike Hoops
Members Absent: None

Planning and Zoning staff present: Christine McCarthy (Environmental Services Director), Neva Maxwell (Land Use Specialist),
Present remotely via Zoom: 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-20-002**, was a variance application filed by **Scott Nesvold**, which if approved, would allow relief from the shoreline setback for an existing cabin and proposed addition of a deck (Section 7.03) on property described as: That part of Gov't Lot 7 as desc. in Doc A189820 & 166591, and part of Gov't Lot 3 as desc. in Bk of Titles 54 p. 141 & Bk of Titles 58, p. 244, Section 8, Township 60, Range 10, 3.57 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Stony River Township. PID: 20-6010-08625/08616/17311

Scott Nesvold represented the application remotely via Zoom. He explained his ownership history. They made an offer on the cabin in November of 2017 and closed in March of 2018. The new the deck had some deterioration, but because of snow cover in 2017, they were not aware how bad it was until after they owned it. They determined it was unsafe and removed the deck in May 2018 with plans to rebuild it. They also realized that the deck was being damaged because of snow from the roof. The snow falling of the roof and rain also caused water to drain into the

basement because of the exterior entrance. In June 2019 He built the awning onto the north side of the cabin, extending the roof, to keep snow and rain away from the side cabin entrance and basement entrance. He was not aware that the awning required a permit.

In the fall of 2019, in preparing to list the cabin for sale, his real estate agent referred them to the Planning and Zoning office to get a permit before rebuilding the deck. It was at this time it was discovered the previous owner (now deceased) did not build the cabin in the location stated on his permit from 2001. Nesvold purchased the cabin through the estate. The cabin, awning, and deck would all require variances due to not meeting the shoreline setback of 100'.

McCarthy read the legal requirements. There was no correspondence for this application.

Maxwell clarified for the BOA that this application has 3 requests, one for the existing cabin, one for the existing awning, and one to replace the deck.

There were no members of the public present via teleconference. The public comment portion was closed.

Fogelberg opened discussion to the BOA.

Hoops stated the difficulty when a property is developed and then sold after many years of use. Buyers need to be aware of what they are purchasing.

Brodigan stated, as an after-the-fact, one of the criteria is whether the County will have a benefit that far outweighs the burden to the applicant from denying the variance.

Fogelberg stated if this had been considered 20 years ago, before it was built, the finding would be there is adequate room to meet the setbacks. However, considering it has a basement and would cause further disruption

to the land and lake to dig a new basement, there wouldn't be much benefit to the County to move the cabin. He stated he is okay with the cabin but adding the deck would add to the non-conformity. He stated he understood the need for the awning, but maybe it didn't need to run the whole length of the house. That it could just cover the 2 entry ways.

Hoops agreed with keeping the cabin and partial awning. He also stated a stairway is needed by the lakeside doors.

Brodigan agreed with keeping the cabin where it is, and also the need for a small porch and stairs and each entry way. He was in favor of leaving the entire awning.

Motion by Hoops supported by Brodigan to approve the variance request for an existing cabin, 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; Cabins are allowable under the Ordinance, no other conflicts.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; The cabin has been there for nearly 20 years, and having a cabin is reasonable
3. **Is the practical difficulty due to circumstances unique to the property not created?** Yes; The cabin was built by the former owner, current owner did not know of issue.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the current owner was only made aware of the issue recently. The problem was caused by the previous

owner that did not build meeting the setback.

5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; the cabin was built almost 20 years ago.
6. **Does the practical difficulty involve more than economic considerations?** Yes; it would be more disruptive to the land and lake to move the cabin
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?** The cabin was permitted by previous owner; it was not built according to setback stated on the permit. The current owner submitted a variance application when made aware of the issue.
8. **Did the applicant make a substantial investment in the property and complete the construction before the applicant was informed of the impropriety?** Yes; the cabin was there when current owner purchased the property.
9. **Are there similar structures in the area?** Yes; there are other cabins on the lake.
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?** After 20 years, the County would have little benefit in moving the cabin, but it would be a substantial burden for the applicant to move the cabin onto a new basement meeting the shoreline setback.

The motion passed by unanimous vote.

Motion by Hoops supported by Brodigan to approve the variance request for a deck with the following conditions:

1. Approved is a 6" by 8' deck on the lakeside of the cabin, for access/egress from the patio doors, with stairs running

parallel to the cabin and under the eaves. Stairs not to exceed 4' in width. Stairs off either side of the deck, not both.

2. Also approved is a 6' by 6' deck on the north side of the cabin for access/egress into the cabin. Stairs not exceed 6' in width.

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; as approved with conditions.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; buildings require adequate access and egress.
3. **Is the practical difficulty due to circumstances unique to the property?** Yes; the previous owner built the original deck without permits.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the current owner was unaware of the issue.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; entrances are a normal part of a cabin.
6. **Does the practical difficulty involve more that economic considerations?** Yes; the cabin needs entrances.
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; the applicant was made aware of the issues with the cabin when attempting to get a permit to rebuild the deck he had removed for safety issues.

8. **Did the applicant make a substantial investment in the property and complete the construction before the applicant was informed of the impropriety?** Yes; the owner purchased the property with a deck on the cabin. The deck required replacement.
9. **Are there similar structures in the area?** Yes; buildings have entrances.
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? Yes, the County's benefit to not increase the non-conformity beyond what is necessary far outweighs the burden of the applicant in not having a larger deck built.

The motion passed by unanimous vote.

There was further discussion at this time regarding the awning. Brodigan, who is a log home builder, stated that the cabin should have been built with wider eaves to protect the structure. There was discussion that the awning protected not only the entrance to the cabin, but also kept snow away from the foundation and lower logs. Nesvold stated the snow is only an issue on the north side where snow can remain into May. He stated the south side gets enough sun to melt the snow.

Motion by Hoops supported by Brodigan to approve the variance request for an existing awning as with the following condition:

No deck is to be built under the awning or eaves except as approved for each entrance.

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.

2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; the awning serves to protect the existing structure.
3. **Is the practical difficulty due to circumstances unique to the property?** Yes; the cabin was built with inadequate eaves.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the current owner was trying to correct an issue created by the inadequate eaves.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; other cabins are built with eaves.
6. **Does the practical difficulty involve more than economic considerations?** Yes; the purpose of the awning is to divert snow and rain from the foundation and entrances.
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; the applicant submitted a variance application when made aware of the issue.
8. **Did the applicant make a substantial investment in the property and complete the construction before the applicant was informed of the impropriety?** Yes; the awning was already built.
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?** Yes; removal of the awning would have little benefit to the County.

Motion by Hoops supported by Brodigan to approve the March 9, 2020 minutes as submitted. Motion passed by unanimous vote

There being no further business, motion to adjourn the meeting made by Brodigan supported by Hoops. Motion passed by unanimous vote. Meeting adjourned at 6:15 p.m.

Respectfully submitted,

Jill Paron
Environmental Services Specialist

The motion passed by unanimous vote.