

**Official Minutes of the Board of Adjustment
Lake County Service Center
August 10, 2020**

Approved as submitted
9/14/2020

The Lake County Board of Adjustment sat in session on this date at 5:00 P.M to conduct hearings and other business.

Members present: Jon Fogelberg, 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-20-003**, was a variance application filed by **Susan Duffy and Linda Ganister**, which if approved, would allow relief from the side-yard and road right-of-way setback for a garage and side-yard setback for a shed (Ordinance #12, Section 6.01 & 14.01 E) on property described as: Lot 1 and E ½ of Lot 2, Block 27 and E 75 ft. of Lot 10, Block 26, Section 31, Township 63, Range 11, 0.5 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Fall Lake Township. PID: 28-6382-26100/27010.

Susan Duffy and Linda Ganister represented the application. Susan Duffy explained they have a lot only 75 feet wide and 200 feet deep with the road in the middle of the lot. She explained they would like the 2-car garage to be built on what is currently a parking area and to keep a plastic shed, for lawn/yard, equipment which they didn't know required a permit to place on the property.

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

There was no one in the audience to comment.

Fogelberg noted the small lots were platted before zoning.

Hoops stated that garages are needed in our climate.

Brodigan stated that the applicants have made shoreline improvements including removing an old concrete dock. He stated the applicants' preference was to have the garage and the shed, but they also proposed they could remove the shed and build a slightly larger garage.

Maxwell clarified that the garage request was 20 ft by 20 ft with a 4-foot eave off one side for canoe storage.

Fogelberg stated he could not find a location that met all setbacks. He did state he would like to see more setback for the shed. His concern being fire emergency access.

Hoops agreed. He added that the setback is needed for maintenance access as well.

There was general discussion about possible options for the shed location.

Motion by Hoops supported by Brodigan to approve the variance requests 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; accessory storage structures are allowable.
- 2. Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; a garage and shed is normal.
- 3. Is the practical difficulty due to circumstances unique to the property not created?** Yes; the small

lot does not give much room to meet setbacks.

4. Is the need for the variance created by actions other than the landowners or prior landowners?

Yes; the lots were platted before zoning requirements.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes; the lots in the area have similar structures.

6. Does the practical difficulty involve more that economic considerations?

Yes; the small lot size is the only issue.

The motion passed; Hoops and Brodigan in favor, none opposed.

Motion by Hoops supported by Brodigan to approve the June 8, 2020 minutes as submitted. Motion passed by unanimous vote

The second hearing, **V-20-004**, was a variance application filed by **Nathan Hoffman**, which if approved, would allow relief from the road right-of-way setback for a second story deck (Ordinance #12, Section 6.01) on property described as: 2.27 acres out of Wly 125 ft of Ely 455 ft of Gov't Lot 1 as desc. in Cert. of Titles 51 pg. 73 & Tract E of RLS #4, Section 12, Township 55, Range 8, 4.53 acres, zoned C-R/Commercial-Rural District, two-acre minimum, Beaver Bay Township. PID: 26-5508-12021/12012

Nathan Hoffman represented the application. Currently can build a second story deck 3-feet out from the cabin. Would like to make it 5 feet, but that encroaches into the road right-of-way setback. It would also serve as a fire escape. There is a concrete slab below the proposed deck.

McCarthy read the legal requirements and gave the staff report. There was one item of correspondence in favor for this application. McCarthy stated she verified the measurements and stated the road is a low traffic township road.

Hoops asked if there would be stairs coming down for the fire escape. Hoffman stated he could have a fire escape ladder for that purpose. Hoops stated that there is just one door for the cabin, so a fire escape ladder from the second story would be a good idea.

There was general discussion about construction of the deck. McCarthy confirmed that this property has been approved as a vacation rental and will also be inspected by the Health Department.

Motion by Brodigan supported by Hoops to approve the variance request 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; decks are allowed, and it serves as a fire escape.
- 2. Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; The request is only a 2-foot encroachment.
- 3. Is the practical difficulty due to circumstances unique to the property not created?** Yes; the building was located close to the setback.
- 4. Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the prior landowner built the cabin that close to the setback.
- 5. Will the issuance of the variance maintain the essential character of the locality?** Yes; the change is not significant.
- 6. Does the practical difficulty involve more that economic considerations?** Yes; costs are not a concern for this request.

The motion passed; Hoops and Brodigan in favor, none opposed.

The third hearing, **V-20-005**, was a variance application filed by **Michael Mavetz**, which if approved, would allow relief from the shoreline setback to expand a non-conforming cabin (MN Statute 394.36 and Ordinance #12 Section 28.03) on property described as: E 120 ft of Lot 4, Section 17, Township 63, Range 11, 4.2 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Fall Lake Township. PID: 28-6311-17405

Mike Mavetz represented the application. They have a 24' by 45' cabin built in 1970. It does not meet the 100' lake setback. They want to add a second story with 2 bedrooms and bath, and addition off the back and off the side. They considered other option of living space inside 2016 garage. The cabin expansion would not require any excavation or taking down trees. The second story would not be highly visible from the lake.

McCarthy read the legal requirements and gave the staff report. There were two items of correspondence favorable to this application; McCarthy stated this would be an increase of 76% of the current square footage. Maxwell explained this is a variance from Lake County Ordinance for the size of expansion and MN State Statute which does not allow expansion non-conforming structures in shoreland.

There was no one in the audience to comment.

Hoops stated it could use more vegetative screening from the lake.

Fogelberg noted that the entire cabin is in the setback, with the back side at the setback line. He considered whether there was room to move the cabin into compliance since the cabin is on posts. He stated the septic tank is behind the cabin as well as the sauna, which didn't leave room to move the cabin.

Mavetz stated the current height of the cabin is 18 feet [he is requesting 20 feet in height].

There was general discussion about the interior remodeling and how it relates to the proposed expansion.

There was discussion about the addition of a 7' by 24' deck on the side of the cabin. Fogelberg suggested reducing the size to a staircase and landing suitable for access to the cabin.

Hoops expressed concern with reducing the roof pitch as it relates to the snow load capacity.

There was discussion about the 6' by 10' addition on the side of the cabin behind the screen porch. The discussion included squaring off the 6' by 10' addition to line up with the screen porch. 2 stories instead of having 4' by 24' addition on the opposite side of the cabin.

Fogelberg summarized the BOA discussion as allowing a 46' by 24', 2-story cabin, 20 feet in height, and the staircase with landing for the cabin entrance on the east side to remain at its current size.

Motion by Hoops supported by Fogelberg to approve the variance request as a cabin on the first floor being 24-foot deep by 46-foot wide, the second story being 24 feet by 24 feet and no more than 20 feet in height total; also approved is a staircase and landing on the east side to remain at its current size.

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; adding a shower and utilities is in harmony.
- 2. Is the owner proposing to use the property in a reasonable manner not permitted by the official control?**

Yes; the request for a shower and utilities is reasonable.

3. **Is the practical difficulty due to circumstances unique to the property not created?** Yes; the cabin was built before the zoning ordinance.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** No, however, the setback rules did not exist when the cabin was built.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; the request as modified in the approval maintains the essential character.
6. **Does the practical difficulty involve more that economic considerations?** Yes; the issue is the location of the existing cabin.

The motion passed; Hoops and Brodigan in favor, none opposed.

The fourth hearing, **V-20-006**, was a variance application filed by **Patrick and Patricia Zupancich**, which if approved, would allow relief from the shoreline setback to expand a non-conforming cabin (MN Statute 394.36 and Ordinance #12 Section 28.03) and relief from the side-yard and shoreline setback for a sauna (Ordinance #12, Section 14.01 E & 7.03) on property described as: Lot 2, Block 1 & an undivided 1/13 interest in Outlot B (road) and an undivided 1/15 interest in Outlot C (additional .69 acres), Klos Py Lake Plat, Section 16, Township 63, Range 11, .37 acres, zoned R-R/Residential-Recreational District, one-acre minimum, Fall Lake Township. PID: 28-6316-01020.

Patrick and Patricia Zupancich represented the application. Patrick stated they purchased the family property in 2014. The cabin was moved to the property in the 1950's They plan to add a septic system and well if the variance is approved. They need room for an additional bedroom and bathroom with a shower. They also have a sauna. Fogelberg asked if the sauna was portable. Patrick stated that wiring

the sauna cost about \$1000. It could be moved, but it would involve relocating wiring. This location was chosen because it would be in a low spot if it was pushed back.

McCarthy read the legal requirements and gave the staff report. There was no correspondence for this application. Maxwell addressed the State Statute and Lake County Ordinance involved. Also, she mentioned the railings were added to the deck on the lakeside of the cabin without a permit and also requires a variance.

There was no one in the audience to comment on the application.

There was general discussion about the property.

There was discussion about the septic location, which was identified by a licensed designer, and the proposed location of the well.

Maxwell explained impervious surface requirements and need for a surface water runoff plan for an approval.

Motion by Brodigan supported by Fogelberg to approve the variance request for a 20' by 24' cabin expansion with the following condition:

- Must submit a surface water run-off plan approved by the Soil and Water Conservation District.

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 an existing cabin with a need for upgrades of indoor plumbing and bathroom.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?**

Yes; indoor plumbing and space for family is a reasonable request.

3. **Is the practical difficulty due to circumstances unique to the property not created?** Yes; moved there before zoning to a small lot.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; the lot size is small.
5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; most properties in this area are small.
6. **Does the practical difficulty involve more than economic considerations?** Yes; lot size and pre-zoning development created the practical difficulty.

The motion passed; Hoops and Brodigan in favor, none opposed.

Motion by Brodigan supported by Hoops to approve the variance request to allow an existing sauna 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; saunas are common on lake lots.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; a sauna is reasonable.
3. **Is the practical difficulty due to circumstances unique to the property not created?** Yes; narrow lot width.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; lot created pre-zoning.
5. **Will the issuance of the variance maintain the essential character of**

the locality? Yes; similar to other properties.

6. **Does the practical difficulty involve more than economic considerations?** Yes; limited space.
7. **Did the applicant act in good faith and attempt to comply with the law by obtaining the proper permits?** Yes; once they were informed of the need of a permit.
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 sauna was already installed and wired.
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?** There is little benefit to the County in requiring applicant to move sauna; lot is small with few options.

The motion passed; Hoops and Brodigan in favor, none opposed.

Motion by Hoops supported by Brodigan to approve the variance request for existing railings added to a deck on the non-conforming 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; railings are for safety.
2. **Is the owner proposing to use the property in a reasonable manner not permitted by the official control?** Yes; railings on a deck are for safety.
3. **Is the practical difficulty due to circumstances unique to the**

- property not created?** Yes; pre-zoning deck.
4. **Is the need for the variance created by actions other than the landowners or prior landowners?** Yes; lot size and cabin predate zoning laws.
 5. **Will the issuance of the variance maintain the essential character of the locality?** Yes; decks are common.
 6. **Does the practical difficulty involve more that economic considerations?** Yes; lot size, pre-zoning cabin, rails for safety.
 7. **Did the applicant act in good faith and attempt to comply with the law by obtaining the proper permits?** Yes; once informed of need for permits.
 8. **Did the applicant make a substantial investment in the property and complete the construction before the applicant was informed of the impropriety?** Yes; railings were already installed
 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?** The County has little benefit in having the railings removed from the deck.

The motion passed; Hoops and Brodigan in favor, none opposed.

There being no further business, motion to adjourn the meeting made by Hoops supported by Brodigan. The motion passed; Hoops and Brodigan in favor, none opposed. Meeting adjourned at 7:25 p.m.

Respectfully submitted,

Jill Paron
Environmental Services Specialist