

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, NOVEMBER 10, 2022.

12:00 PM – 3:43 PM

Board of Adjustment members in attendance: Tom Coombe
Dan Manick, Alternate
James McKenzie
Dave Pollock
Roger Skraba
Ray Svatos (until 2:00 PM)
Diana Werschay, Chair

Board of Adjustment members absent: Steve Filipovich

Decision/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. Jenny Tobin and Linnea Browne, S27, T62N, R14W (Eagles Nest)
- B. Steger Wilderness Center (with Vermilion Barging), S12, T63N, R12W (Morse)
- C. Ron and Sandi Shoden, S14, T60N, R19W (Unorganized)
- D. Jason Larry, S7, T63N, R12W (Morse)
- E. Lori Melbostad, S10, T63N, R18W (Beatty)
- F. William Trautman, S8, T53N, R17W (Northland)

OTHER BUSINESS:

Motion by McKenzie/Skraba to approve the minutes of the October 13, 2022 meeting.

In Favor: Coombe, McKenzie, Pollock, Skraba, Svatos, Werschay – 6

Opposed: None – 0

Abstained: Manick - 1

Motion carried 6-0-1

NEW BUSINESS:

Case 6335 – Jenny Tobin and Linnea Browne

The first hearing item was for Jenny Tobin and Linnea Browne, property located in S27, T62N, R14W (Eagles Nest). The applicant is requesting relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface sewage treatment system installation at a reduced property line setback and a reduced road right-of-way setback. *Emily Anderson*, St. Louis County Environmental Specialist, reviewed the staff report as follows:

- A. The applicant is requesting a subsurface sewage treatment system installation at a reduced property line setback and a reduced road right-of-way setback.

- B. The existing holding tank is proposed to be used with the installation of a replacement mound located nine feet from a property line where 10 feet is required and located seven feet from the right-of-way where 10 feet is required.
- C. This system is a replacement to abandon an imminent public health threat drain field that was damaged during construction of the dwelling.
- D. There is currently a dwelling and accessory structure on the property.
- E. After variance approval for the dwelling, the system was sited at a 20 foot setback to the dwelling. During the dwelling construction, the in-ground bed was dug into, and the lateral line was exposed. This was resolved by converting the septic tank to a holding tank. The proposed system will replace the holding tank.

Emily Anderson reviewed staff facts and findings as follows:

A. Official Controls:

- 1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards.
- 2. All other setbacks will be met.
- 3. The required setback from a property line or road right-of-way is 10 feet.
- 4. The applicant is requesting a reduced setback of seven feet from the road right-of-way and nine feet from the property line.

B. Practical Difficulty:

- 1. The existing On-Site Wastewater system was damaged by the builder of the house. The previous plan by the building included a 20 foot setback to the system. However, the system was dug into and destroyed during construction. The system is exposed to the ground surface. The existing tank was converted to a holding tank upon damage of the field.
- 2. The proposal is to abandon the existing drain field and build a replacement mound. The site has limited septic area due to setbacks from the existing well, buildings, lake, and disturbed soil areas.

C. Essential Character of the Locality:

- 1. The area is characterized by established development.

D. Other Factors:

- 1. The existing drain field, to be replaced, is an imminent public health threat.
- 2. All other setbacks including structure, dwelling, lake, and well will be met.
- 3. The existing holding tank will be converted back to a septic tank and used in the proposed system.
- 4. If the supply line is within 50 feet but no closer than 20 feet to the well, a pressure test is required and shall be performed.

Emily Anderson noted no items of correspondence.

STAFF RECOMMENDATION

Conditions that may mitigate the variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface

sewage treatment system installation (mound) located nine feet from a property line where 10 feet is required, and located seven feet from the right-of-way where 10 feet is required as proposed include, but are not limited to:

1. All other Onsite Wastewater SSTS standards shall be met.
2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing the Certificate of Compliance.
3. All other local, county, state and federal regulations shall be met.

Linnea Browne, 1406 Walsh Road, Ely, stated they do not have the lot area to follow the existing rules. By the time staff looked at the system, they were told the wastewater would seep into the lake if they did not correct the problem.

Jenny Tobin, 1406 Walsh Road, Ely, stated a holding tank is not recommended for a year-round residence and they are both year-round residents.

Two members of the audience spoke.

Mike Peters, 1408 Walsh Road, stated his wife and her sisters own adjacent property. They are looking to upgrade their existing system in the near future. Their proposed system would be located in the northwest corner of that property adjacent to the proposed mound system. They have a 100 foot lot width at Walsh Road so their system placement will be equally challenging. They do not object to the property line setback requested by the applicants and would appreciate similar consideration should they need a variance to replace their own. They hope to work with the applicant on a screening buffer on their shared property line. He spoke with *Emily Anderson* and received information on the “mound” system. He does not know if the existing system will be removed. The “mound” system is only half the size of the bed proposed for his own property. The toe of the mound slope would likely meet the property line setback. As the well setback is only 50 feet and the site sketch shows a setback of 68 feet, is the additional encroachment on the property line required?

Jean Peters, 1408 Walsh Road, stated she understands they do not have a proposal themselves. She is concerned about the tree screening between their properties.

Emily Anderson stated the mound should not be moved over disturbed/impacted soils. Water would not be able to penetrate as quickly and could cause issues. This is why the system cannot be moved closer to the driveway. The bed of the mound will be located nine feet from the property line. Trees cannot be planted on this bed, but vegetation can be planted above and below this bed.

No other call-in users, present audience members or other virtual attendees spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Svatos* asked if the holding tank would be adequate until spring 2023. *Emily Anderson* stated it would be.
- B. Board member *Skraba* stated the Board of Adjustment gave a variance for the dwelling. *Emily Anderson* stated it was during construction of the dwelling approved by variance

when the system was destroyed. The dwelling was located seven feet from the system when the system was exposed and destroyed.

- C. Board member *Coombe* asked if the builder was aware of that septic line being at that location. *Jenny Tobin* stated once the construction is finished, they will file a complaint against the contractor. The contractor should have known the line was there.
- D. Board member *Skraba* asked what the distance needs to be between two mound systems. *Emily Anderson* stated if the systems are placed on the same contour there would not be a setback. As long as the rock beds are not overlapping, there should not be an issue. If there is a hydraulic setback, staff would work with a soil scientist to calculate that setback. Slope is the biggest factor for the setback.
- E. Board member *Skraba* asked about a property line setback for the rock bed. *Emily Anderson* stated that there is a ten foot property line setback for the rock bed, but the toe can go to the property line because there would be no sewage at the toe of the mound.
- F. Board member *McKenzie* asked why the applicant's existing system cannot be removed and replaced. *Emily Anderson* stated the designer looked at this option, but the existing system is too damaged to be repaired. It would require removing laterals, removing rock and replacing the rock. However, the system is too close to the house and would have required a structure setback variance to be located eight feet from the dwelling when 20 feet is required. A soil scientist evaluation may have been required because the soils were disturbed which would have been more costly.
- G. Board member *Skraba* asked if the existing system will be removed. *Emily Anderson* stated the existing system would be permanently denied discharging. The best option may not be to remove it. The law allows the drainfield to remain on site but is a permanent disturbed site for wells. The system would need to be factored in to a 50 foot well setback. This includes any well the neighbor may want to install.

DECISION:

Motion by Skraba/Coombe to approve a variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface sewage treatment system installation (mound) located nine feet from a property line where 10 feet is required, and located seven feet from the right-of-way where 10 feet is required, based on the following facts and findings:

- A. Official Controls:
 - 1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards.
 - 2. All other setbacks will be met.
 - 3. The required setback from a property line or road right-of-way is 10 feet.
 - 4. The applicant is requesting a reduced setback of seven feet from the road right-of-way and nine feet from the property line.
 - 5. The applicants are trying to bring the problem into compliance with a variance.
 - 6. The variance request is in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
 - 1. The existing On-Site Wastewater system was damaged by the builder of the house. The previous plan by the building included a 20 foot setback to the system. However,

the system was dug into and destroyed during construction. The system is exposed to the ground surface. The existing tank was converted to a holding tank upon damage of the field.

2. The proposal is to abandon the existing drain field and build a replacement mound. The site has limited septic area due to setbacks from the existing well, buildings, lake, and disturbed soil areas.
3. The original drain field was broken and is an imminent public health threat. A holding tank is not a solution to this problem.
4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The area is characterized by established development.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The existing drain field, to be replaced, is an imminent public health threat.
2. All other setbacks including structure, dwelling, lake, and well will be met.
3. The existing holding tank will be converted back to a septic tank and used in the proposed system.
4. If the supply line is within 50 feet but no closer than 20 feet to the well, a pressure test is required and shall be performed.
5. This request is to correct a problem not caused by the applicant.

The following conditions shall apply:

1. All other Onsite Wastewater SSTS standards shall be met.
2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing the Certificate of Compliance.
3. All other local, county, state and federal regulations shall be met.

In Favor: Coombe, Manick, McKenzie, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Case 6336 – Steger Wilderness Center (with Vermilion Barging)

The second hearing item was for Steger Wilderness Center (with Vermilion Barging, contractor), property located in S12, T63N, R12W (Morse). The applicant is requesting relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface sewage treatment system installation at a reduced principal dwelling structure setback. *John Otterbein*, St. Louis County Environmental Specialist Technician, reviewed the staff report as follows:

- A. The applicant is requesting to allow a subsurface sewage treatment system installation at a reduced principal dwelling structure setback.
- B. A holding tank proposed to be installed at a reduced structure setback of six feet where 10 feet is required.
- C. The holding tanks will be as far from each structure as possible; however, due to ledge rock they may need to adjust slightly.

- D. Development on the property consists of multiple private, staff, and resident dwellings, several accessory structures, and multiple privies.
- E. The majority of the parcel is well screened. The wilderness center is a very tall structure and visible from the lake.
- F. This property has many topographical features. There are steep slopes, wetlands, ridges, and bluffs. The majority of the steep slopes and bluff areas appear to have shallow soils.
- G. There are wetlands on the property, but the proposal will not impact any wetlands.

John Otterbein reviewed staff facts and findings as follows:

A. Official Controls:

- 1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards and the setback requirements on the MN Shoreland Rules.
- 2. The required setback is 75 feet from the shoreline for this Recreational Development classification. The 75 foot lake setback will be met.
- 3. The required setback from a tank to a dwelling is 10 feet.
- 4. The applicant is requesting a reduced setback of six feet from septic tank to the structure.

B. Practical Difficulty:

- 1. A conditional use permit for the wilderness center was approved by the Planning Commission in 2018. Multiple permits for various structures have been issued since 2019 in various locations on the property. One of the structures associated with the variance proposal had no indication of pressurized water or plumbing when the structure was permitted with a land use permit. A change in the plans for this structure has precipitated the variance request.
- 2. Due to the location of the built structure with plumbing and after-the-fact change, the septic was not planned or permitted prior to the building permit which is the typical process.
- 3. The holding tank to serve the structure would be located between the newly built structure, an existing structure, ledge rock, and a driveway.

C. Essential Character of the Locality:

- 1. The surrounding area is mostly forest, with areas of exposed bedrock and structures scattered throughout the property.

D. Other Factors:

- 1. The land use permit issued in 2022 indicated this structure was to be a “shed” without any pressurized water and was not noted to be a kitchen.
- 2. If a sewage basin was installed inside the structure and pressurized to the holding tanks in a different location, the structure setbacks could potentially be met.
- 3. Setbacks could potentially be met by blasting into the bedrock.
- 4. The land use permit shall be amended to include pressurized water.
- 5. St. Louis County SSTS Ordinance 61, Article V, Section 3.0 Variances, Subpart 3.03 D. 1., states that a variance may be granted provided the condition causing the

demonstrated practical difficulty is unique to the property and was not caused by the actions of applicant.

John Otterbein noted no items of correspondence.

STAFF RECOMMENDATION

Conditions that may mitigate the variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface sewage treatment system installation at a reduced structure setback of six feet where 10 feet is required as proposed include, but are not limited to:

1. All other Onsite Wastewater SSTS standards shall be met.
2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing the Certificate of Compliance.
3. The land use permit shall be amended to include pressurized water.
4. All other local, county, state and federal regulations shall be met.

Neither the landowner nor the contractor was present. No call-in users, present audience members or other virtual attendees spoke.

Board member *Pollock* asked if the holding tanks will be pumped out or if they will tie into an existing septic system. *John Otterbein* stated this is for a holding tank only. If those holding tanks were in a different location, they would need to be pumped to a specific area.

DECISION:

Motion by McKenzie/Skraba to approve a variance for relief from St. Louis County SSTS Ordinance 61 adopted Technical Standards 7080.2150, Subpart 2, Section F, Table VII, to allow a subsurface sewage treatment system installation at a reduced structure setback of six feet where 10 feet is required, based on the following facts and findings:

A. Official Controls:

1. SSTS Ordinance 61 states that all SSTS components must be setback in accordance with Table VII of the SSTS Technical standards and the setback requirements on the MN Shoreland Rules. The required setback is 75 feet from the shoreline for this Recreational Development classification.
2. The required setback from a tank to any structure is 10 feet.
3. The applicant is requesting a reduced setback of six feet from septic tank to the structure.
4. While regulations are established in complying with official controls, it also recognizes the need for adjustments in unique circumstances such as this where a case of public health may be a factor.
5. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant's parcel contains ledge rock near the surface which limits placement of a holding tank in the permitted location. Blasting and removal of ledge rock to comply is a practical difficulty.

2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The surrounding area is mostly forest, with areas of exposed bedrock and structures scattered throughout the property.
2. The facility is the only occupant of the locality other than a neighbor across the lake that can see the large structure on the parcel. The proposed holding tanks would not be visible.
3. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. No correspondence was received.

The following conditions shall apply:

1. All other Onsite Wastewater SSTS standards shall be met.
2. Following the system installation, an inspection shall be performed by a qualified inspector to ensure setbacks are met prior to issuing the Certificate of Compliance.
3. The land use permit shall be amended to include pressurized water.
4. All other local, county, state and federal regulations shall be met.

In Favor: Coombe, Manick, McKenzie, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Case 6337 – Ron and Sandi Shoden

The third hearing item was for Ron and Sandi Shoden, property located in S14, T60N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a principal structure at a reduced shoreline setback. *Ada Tse*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting to construct a 28 foot by 54 foot replacement dwelling located 54 feet from the shoreline of Lake Fourteen where 100 feet is required.
- B. The existing 20 foot by 40 foot 2-bedroom cabin is located 50 feet from the shoreline, as measured in the field.
- C. The property has good vegetative cover. Screening along property lines is fair, aside from the east property line which has minimal screening.
- D. The parcel is relatively flat. There is a gradual slope towards the lake within the shoreline setback.

Ada Tse reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62, Article III, Section 3.4 state the shoreline setback requirements. Lake Fourteen is a Recreational Development Lake which requires a 100 foot shoreline setback. The applicant is requesting a 54 foot shoreline setback.

2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 of the St. Louis County Comprehensive Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.

B. Practical Difficulty:

1. There are no unique physical circumstances of the property.
2. Alternatives exist that either do not require variance or minimize the degree of variance:
 - a. Move the proposed structure back to the 100 foot setback.
 - b. Re-orient the proposed structure to increase the shoreline setback distance.
 - c. Move the proposed structure up to 20 feet further back and still maintain access to the pole building.
 - d. Propose an alternative configuration of the dwelling that would minimize the degree of variance.
 - e. Shoreline averaging would allow a dwelling located 78 feet from the shoreline without variance.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. Most of the dwellings in the Pine Beach 1st Addition plat do not meet the 100 foot lakeshore setback.
2. Most of the lots in the plat are nonconforming due to not meeting the lot width requirement of 150 feet in a Shoreland Multiple Use (SMU)-7 zone district.
3. There have been seven approved variances in the same plat, all of which pre-date the adoption of the 2007 zoning ordinance regarding nonconformities.
 - a. One of the seven approved variances allowed a replacement dwelling at a reduced shoreline setback.
 - b. Other approved variances were to allow for additions to nonconforming structures, and to allow new SSTS systems on a lot that did not meet lot size requirements at the time.

D. Other Factors:

1. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
2. Objective LU-3.2 of the St. Louis County Comprehensive Land Use Plan is to have county staff and decision-makers work together to decrease the amount of zoning ordinance nonconformities throughout the county.

3. There is currently an active subsurface sewage treatment system permit to construct a holding tank.
4. The applicant indicated the proposed dwelling could be moved back an additional six feet to a 60 foot shoreline setback.

Ada Tse noted no items of correspondence.

STAFF RECOMMENDATION

Conditions that may mitigate the variance for a replacement dwelling at a reduced shoreline setback of 54 feet where 100 feet is required as proposed include, but are not limited to:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim, and roof.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. St. Louis County Solid Waste Ordinance 45 standards shall be followed.
4. The stormwater runoff from the proposed structure shall not discharge directly into the lake or onto adjacent lots.

Ron Shoden, 1011 2nd Street, Virginia, stated they purchased this property 40 years ago. This property was next door to one they already owned. They decided to keep it a cabin with an outhouse. Nine years ago, they had an agreement with three generations of neighbors to purchase property if it ever went up for sale. They did not know what to do with the place other than for family to stay in. This structure was used for a bunkhouse/hunting camp. The past few years they have talked about selling their home in Virginia and making this property their primary residence. The dwelling is in bad shape. The windows and siding need to be replaced. They could remodel the structure and add a bathroom. However, the structure is 50 feet from the shoreline. They could add on 400 square feet as long as there was no square footage closer to the lake. To remodel the structure would be expensive and time-consuming. They would still have a structure 50 feet from the lake and the structure was built in 1949.

About two years ago, they started looking into modular homes. They looked at dozens of different home styles before finding one they liked. They were looking for a home with no stairs. They spoke with *Ada Tse* several times about what their options are. There is a dip on the property. They could reconfigure the back stairs and move the structure back six feet without needing to build a retaining wall, which would be very expensive. The front of the dwelling would be 60 feet from the lake. However, the front of the dwelling is eight feet of porch. There will be a full basement underneath this structure.

The proposed structure would be 38 feet from their designed septic system. This would be located down in the dip. They use one of two driveways on their property. The left driveway is only used by their septic contractor. Their property is also used as a boat launch as there is no public access on Lake Fourteen. Their right driveway is used to access that property as well as the boat launch. There is a bunkhouse located closer to shore. He added this property is not a level property. To build further back they would need to add a retaining wall which could be costly. They would also need to add more stairs.

This is going to be a big improvement on what already exists. He believes the neighbors and the rest of the lake will appreciate this.

No call-in users, present audience members or other virtual attendees spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *McKenzie* stated that the staff report stated there were no unique physical circumstances of the property and the applicants referenced a low area on the east side of the existing dwelling. Could this low area be a factor or a practical difficulty in the reason why the structure can be moved? *Ada Tse* indicated where this low area is located. *Ron Shoden*, the applicant, showed the Board photographs indicating the location of this low area.
- B. Board member *Pollock* asked if the contractor was the one who chose this building location. *Ron Shoden* stated yes. Board member *Pollock* stated that the ground is not level away from this location.
- C. Board member *Pollock* noted one thing that could change the setback distance would be if there is a deck and not a porch (covered by a roof). That would make the shoreline setback 68 feet. *Ron Shoden* stated if that was an issue that could be done.
- D. Board member *Manick* asked if there is an eight foot basement why is a retaining wall necessary? Some people have a walkout basement which makes a retaining wall unnecessary. *Ron Shoden* stated their contractor stated a retaining wall would be necessary if the structure were moved further back into the slope. Board member *Pollock* added at his residence, there is an exposed basement on one side because of a walkout basement. They needed a retaining wall because of the slope coming from the house to keep it from washing down where the walkout basement came out.
- E. Board member *Manick* stated he does not see real practical difficulty. While the applicant stated a retaining wall is necessary for moving the structure back, he does not understand why that is an issue. If there is an issue with building into a slope with a basement, fill can be brought to level ground. Board member *Coombe* stated that the applicant and his wife propose to use the property in a reasonable manner not permitted by an official control, which is the setback. Board member *Werschay* added that there is topography on this property as well.
- F. Board member *Werschay* asked if the retaining wall would be used as a frost footing. *Sandi Shoden* stated that their contractor said a retaining wall would be built outside of the basement wall to prevent erosion.

DECISION:

Motion by Coombe/Pollock to approve a variance for a replacement dwelling at a reduced shoreline setback of 60 feet where 100 feet is required, based on the following facts and findings:

- A. Official Controls:
 1. This is a very old subdivision with many cabins in a residential setting that do not meet setback standards because of the age of the cabins and the size of the lots.
 2. The variance request is in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
 1. The property has some deviation in topography and may need a retaining wall to help control runoff.

2. The applicant is requesting to use the property in a different manner than what is required by statute.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. This is a well built-up area.
2. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. The design of the structure will promote the health and safety of the applicants as they age.

The following conditions shall apply:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim, and roof.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. St. Louis County Solid Waste Ordinance 45 standards shall be followed.
4. The stormwater runoff from the proposed structure shall not discharge directly into the lake or onto adjacent lots.

In Favor: Coombe, Manick, McKenzie, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Case 6338 – Jason Larry

The fourth hearing item was for Jason Larry, property located in S7, T63N, R12W (Morse). The applicant is requesting after-the-fact relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a principal structure at a reduced shoreline setback. *Ada Tse*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting after-the-fact approval to allow an existing 40 foot by 42 foot dwelling to remain located 81 feet from the shoreline where 100 feet is required.
- B. In 2015, the previous owners were issued a land use permit to construct the existing dwelling located 100 feet from the shoreline.
- C. All other setbacks have been met.
- D. The property has a dwelling, sauna as a water-oriented accessory structure, septic, and a driveway.
- E. There is steep slope on the property towards the shoreline with an elevation change of 80 feet from road to shore.

Ada Tse reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62, Article III, Section 3.4, states the shoreline setback requirements. Burntside Lake is a Recreational Development Lake which requires a 100 foot shoreline setback.
 - a. The existing dwelling was constructed 81 feet from the shoreline.

2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 of the St. Louis County Comprehensive Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.

B. Practical Difficulty:

1. The subject property conforms to the minimum zoning requirements for lot size and width.
2. The entirety of the parcel contains steep slope. Any development of the lot will be affected by the steep slope, at a conforming location or not.
3. Alternatives exist that do not require variance:
 - a. Relocate the structure to the conforming shoreline setback of 100 feet.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The majority of the dwellings in the Passi Lots plat do not conform to the 100 foot shoreline setback.
2. A variance was approved on the adjacent parcel to build a dwelling at a reduced shoreline setback and a zero foot bluff setback.

D. Other Factors:

1. The current owners did not own the property when the structure was permitted and built.
2. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
3. Objective LU-3.2 of the St. Louis County Comprehensive Land Use Plan is to have county staff and decision-makers work together to decrease the amount of zoning ordinance nonconformities throughout the county.

E. Was the construction completed prior to applying for the variance? If not, what extent of the construction has been completed?

1. The existing dwelling was permitted at the conforming 100 foot setback by previous owners in 2015.
2. The current owners purchased the property in 2020 not knowing that the previous owners built the dwelling at a reduced shoreline setback.

F. How would the county benefit by enforcement of the ordinance if compliance were required?

1. The county would benefit by enforcement of the Ordinance because it would promote the regulation of setbacks and land use in accordance with the St. Louis County Comprehensive Land Use Plan and Zoning Ordinance 62.

Ada Tse noted no items of correspondence.

STAFF RECOMMENDATION

Conditions that may mitigate the after-the-fact variance for a reduced shoreline setback of 81 feet where 100 feet is required as proposed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the structure shall not discharge directly into the lake.
3. If the structure were to be replaced, it must be replaced at a conforming location.

Larry David, 917 North Shore Drive, Crystal Lake, IL, the applicant, stated there were documents inconsistent with what was allowed to be built. The permit that was issued was the same as the previous landowner's submittal. He loves the property as is and has no current plans to make changes. The original permit did indicate that there was shoreline averaging of 76 feet.

Two members of the audience spoke.

Larry Bogolub, 1424 Lincoln Avenue, St. Paul, stated they have no objections to the variance and just wanted to listen in.

Paul Deppe, 8110 Old Post Road West, East Amherst, NY, stated he watched the original landowner build the cabin. The cabin is beautiful and fits in with the character of the neighborhood. It is not the closest cabin to the shoreline. Their family has no objection to the variance.

No other call-in users, present audience members or other virtual attendees spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked why the original landowner did not request a variance in order to not build into the steep hill. Board member *Werschay* stated it might be difficult to get accurate measurements.
- B. *Jenny Bourbonais*, Acting Secretary, stated that 76 feet with variance or shoreline averaging may have been discussed with the previous landowner. Shoreline averaging does not apply to this lot because the lot meets zoning ordinance requirements. Shoreline averaging only applies to lots that do not meet minimum lot width. It is now known why shoreline averaging was put on the staff review sheet.
- C. Board member *Pollock* stated it should be considered there was conflicting information on where the cabin was built both on the site sketch and on the staff review sheet from the 2015 land use permit.

DECISION:

Motion by Coombe/Skraba to approve an after-the-fact variance for a reduced shoreline setback of 81 feet where 100 feet is required, based on the following facts and findings:

- A. Official Controls:

1. The current landowner did no harm. The harm was placed on the applicant who thought the cabin was built to standards.
2. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicant did not own the property when the cabin was built.
2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. Most lots in the Passi Lots plat do not conform to setback requirements. This is an existing structure.
2. The variance request will not alter the essential character of the locality.

D. Other Factor:

1. There was conflicting information on the shoreline setback both on the 2015 land use permit and on the original 2015 site sketch.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the structure shall not discharge directly into the lake.

In Favor: Coombe, Manick, McKenzie, Pollock, Skraba, Svatos, Werschay - 7

Opposed: None - 0

Motion carried 7-0

Case 6339 – Lori Melbostad

The fifth hearing item was for Lori Melbostad, property located in S10, T63N, R18W (Beatty). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.2 B., to allow a second principal structure on a parcel that does not have sufficient area to equal the minimum dimensional standards so that the property can be divided at a later date into conforming lots. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a second dwelling on a parcel that does not have sufficient area for a structure to be placed so that can be divided at a later date into a riparian and non-riparian parcel.
- B. The new structure will meet all other ordinance requirements.
- C. The parcel contains a dwelling, pole building and several small storage buildings.
- D. The property contains both steep slope and bluff. The proposed structure will be placed to meet all setback standards, including the bluff.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62 states that there shall be sufficient lot area per structure to equal the minimum dimensional standards and the structures can be placed so the property

can be divided at a later date into conforming lots. The current parcel is 263 feet wide where 400 feet is required to allow two principal structures.

2. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
3. Objective LU-3.3 of the St. Louis County Comprehensive Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22 Subd. 10.

B. Practical Difficulty:

1. There are no unique physical circumstances of the property.
2. Additional land could be acquired; however, it would cause the adjacent parcels to become nonconforming.
3. An accessory dwelling up to 700 square feet in size would be allowed without variance if all ordinance requirements are met.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The area is currently developed with seasonal and year-round homes.

D. Other Factor:

1. The parcel contains sufficient acreage but not width to allow an additional dwelling.

Mark Lindhorst noted three items of correspondence from Bruce W. Anderson, Jeannette Rupert, and Marsha Kamilar not in support of the request. These items were provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

Conditions that may mitigate the variance to allow a second principal dwelling on a parcel that does not have sufficient lot area per structure include, but are not limited to:

1. All other Zoning Ordinance 62 requirements shall be met.
2. St. Louis County On-site Wastewater SSTS standards shall be followed.

Lori Melbostad, 8864 Raps Road, Cook, the applicant, stated the reason they are not requesting a variance to add onto the existing dwelling is because the dwelling was built close to the lake. It is about a 100 foot difference from the road to the lake. They intend to live in the cabin until the dwelling is built. They will keep the cabin as a guest cabin for their children and grandchildren. The house will be built at the top of the hill. They intend a single level with an attached garage. This lot was, at one point, three individual lots that the previous landowner combined into one. She met with Sheri Sawazky to site a new septic system instead of using the one closer to the cabin. They intend to live on the property year-round. The hill would not be sufficient for elderly people.

No call-in users, present audience members or other virtual attendees spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Skraba* asked if the structure size is a factor when an accessory dwelling could exist without a variance. *Mark Lindhorst* stated anything over 700 square feet in size would be called a dwelling. A performance standard permit would be all that is needed for an accessory dwelling 700 square feet in size or less if it met all other standards. No variance would be required.
- B. Board member *McKenzie* asked about the dwelling near the shoreline. If that structure were reduced in size, would that be allowed. *Mark Lindhorst* stated that this structure does not meet shoreline setback. Even if the structure were downsized, it would not be an accessory dwelling as it would not meet a 75 foot shoreline setback.
- C. Board member *McKenzie* asked if the dwelling near the shoreline could be converted into a water oriented accessory structure. *Mark Lindhorst* stated that it would be an oversized structure if it is beyond 250 square feet in size. That request would require a variance.
- D. Board member *Werschay* stated it is difficult to follow this because there was no indication of what size the applicants want for a new structure. *Mark Lindhorst* stated the size of structure is not in question. It is the fact there is not enough lot area for a second principal dwelling. This is not a subdivision variance to allow a buildable lot. This is a land use variance to allow a second principal dwelling. If a second principal dwelling were allowed and the applicant wanted to subdivide in the future, the applicant would require a variance from the Subdivision Ordinance due to not having the lot area for two principal structures on separate lots.
- E. Board member *Skraba* asked if the property would be rented out. *Lori Melbostad* stated that was never their intention. They have no intention of splitting the property.
- F. Board member *Skraba* stated that the applicants meet everything other than lot width.
- G. Board member *Coombe* asked if there is a well on the property. *Lori Melbostad* stated that their intent is to drill a well. Board member *Coombe* asked if the applicant had spoken with their septic contractor about placement of the system in relation to the well and dwelling. *Lori Melbostad* stated they have enough area on the lot to locate a well and septic on the property.
- H. Board member *McKenzie* asked about the property details stating there would not be enough property to separate the one lot into two lots. *Mark Lindhorst* stated this is an Ordinance provision saying the applicant needs to show how each lot can be divided up so each can have a dwelling. This lot cannot be split that way. If the applicants were applying for a subdivision variance for a lake lot and a back lot, they would still need a variance. Ordinance states a non-riparian back lot would need double the lot width.
- I. Board member *McKenzie* stated one of the correspondents was concerned about the property being subdivided and sold. *Lori Melbostad* stated the neighbor might be concerned about another neighbor and they are aware of what went on.
- J. Board member *Pollock* stated this variance is allowing a second principal dwelling on this lot. Board member *Werschay* stated if the applicants decide to subdivide the lot in the future, variance approval would not affect that.

DECISION:

Motion by Manick/Coombe to approve a variance to allow a second principal dwelling on a parcel that does not have sufficient lot area per structure to be subdivided at a later date, based on the following facts and findings:

A. Official Controls:

1. All other standards can be met except for double the lot area required for a second principal structure.
2. The lot can meet the acreage requirements but not double the lot width in size.
3. The health and safety of the applicants should be taken into account.
4. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. The applicants would not be able to use their property year-round without having a second dwelling on top of the hill.
2. The location of the bluff makes construction difficult on the site.
3. All other setbacks can be met.
4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The area is currently developed with seasonal and year-round homes.
2. The applicant intends to add a new septic and well and both can meet all setbacks.
3. The variance request will not alter the essential character of the locality.

The following conditions shall apply:

1. All other Zoning Ordinance 62 requirements shall be met.
2. St. Louis County On-site Wastewater SSTS standards shall be followed.

In Favor: Coombe, Manick, McKenzie, Pollock, Skraba, Werschay - 6

Opposed: None - 0

Motion carried 6-0

Case 6340 – William Trautman

The sixth hearing item was for William Trautman, property located in S8, T53N, R17W (Northland). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.4 D., to allow a single lot as buildable where 0.5 acre is required, and St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal dwelling at a reduced property line setback where 20 feet is required. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting to build an 800 square foot dwelling on a non-riparian lot of record that is 0.24 acre in size where 0.5 acre is required to be considered buildable.
- B. The cabin will be located 15 feet from the property line where 20 feet is required.
- C. No land use permits have been issued for the property and is currently being used as a camper site.
- D. Tree cover is minimal within building site and good along property lines.
- E. This parcel is a back lot that is part of a plat that was approved in the early 1920s.

Mark Lindhorst reviewed staff facts and findings as follows:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article IV, Section 4.4 D., requires 0.5 acre per single lot of record to be permitted as buildable. The proposed undeveloped lot is 0.24 acre.
2. Zoning Ordinance 62, Article III, Section 3.2, requires a 20 foot property line setback in a Shoreland Multiple Use (SMU)-7 zone district. The applicant is proposing 15 feet.
3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 of the St. Louis County Comprehensive Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22. Subd.10.

B. Practical Difficulty:

1. Lot size and width limit building potential without variance. A structure width of 10 feet would allow a structure to meet property line setbacks.
2. The structure will meet all other ordinance requirements.

C. Essential Character of the Locality:

1. The area consists of developed lakeshore lots with minimal development on the back lots.
2. There have been no similar variance requests within the plat.

D. Other Factors:

1. The parcel is a platted lot of record. The applicant has no alternatives for development due to lot size.
2. Northland Township provided resolution #10-0040-2022 requesting the Board of Adjustment deny the variance as proposed.
3. Current violations may be resolved if St. Louis County determines that a permit is part of resolving the violation per St. Louis County Zoning Ordinance 62, Article VIII, Section 8.1 B.

Mark Lindhorst noted four items of correspondence not in support including a resolution from Northland Township and from Roberta Pirkola, Gerald and Charlene Johnson, and Brian and Nicole Pirkola. These items were provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

Conditions that may mitigate the variance to allow a dwelling on a 0.24 acre parcel located 15 feet from the property line where 20 feet is required include, but are not limited to:

1. A certificate of survey shall be completed prior to issuance of a permit to ensure setbacks are being met.
2. All other Zoning Ordinance requirements shall be met.
3. St. Louis County On-site Wastewater SSTS standards shall be followed.

William Trautman, the applicant, was present.

Jake Stonesifer, attorney from Johnson, Killen and Seiler Law Office at 230 West Superior Street, was present to speak on behalf of the applicant. He handed out a booklet of photographs on the property. Mr. Trautman has put in a significant amount of time, effort, and money into the property to get the property into its current condition with landscaping, gardening, clearing. When he purchased the property, it was a vacant wooded lot. Over the past 2.5 years he has been working to improve the property and make it better for the locality. This is now a usable piece of property. The applicant is just asking for a variance for small dwelling with a 15 foot property line setback and a variance to build on a 0.24 acre property instead of 0.5 acre property.

The proposed structure will be 800 square feet in size with half-log siding on it. Permitting Mr. Trautman to build this will permit the applicant to continue living on the property with his 12-year-old son and his mother. His son attends the local school and his mother needs assistance from her son.

Under the Board of Adjustment criteria for approval under if the variance is in harmony with the general purpose and intent of official controls, Zoning Ordinance 62 helps to promote the health, safety and general welfare of the inhabitants of the county. This includes encouraging the most appropriate use of the land; recognizing and preserving the economic values of the land within the county; promoting an orderly development of the county; encouraging compatible developments of different land use and the most appropriate use of the land within the county; and maintaining and enhancing the quality and condition of natural resources within the county. Granting the variance would help facilitate these intended purposes. The proposed cabin will be a safe and comfortable home for himself, his son, and his mother, while contributing to the general health and welfare of the neighborhood. This will increase tax revenue and will increase a desirable real estate market with a nice home in there. It will be placed in the center of the property. There will be trees on the side of the lot so as not to be the detriment of any neighbor. This will improve an otherwise vacant lot. This is the most appropriate and only viable use for this property.

Granting variances of this nature help contribute to a sustainable community which are sustainable if new properties are allowed to be built and development is allowed in an area. By being allowed to build this cabin, the applicant and his family will continue to be active members in the local community.

Has a practical difficulty been demonstrated in complying with the official controls? The practical difficulty is there would be no reasonable use of the property if a variance is not granted. There is nothing that can be done to change the property's dimensions. This was created in a 1920s plat. This property is of a size and acreage that would otherwise not be allowed any development. Without a variance, the applicant would not have any way to use and enjoy the property.

Will the variance alter the essential character of the locality? It should not because there are buildings located on small, narrow lots on the lake. To allow a cabin on a back lot like other lots in the area should not alter the character of the locality. The tax revenue would add value to the neighborhood by adding another nice home. If the variance is granted, the applicant will be on site and will continue to maintain the cabin and the landscaping already started on the property.

It is not fair that the applicant's property is only one street back from the lake and he may not be able to build a structure on a lot of a similar size and acreage to those that already exist on the lake. This property is in a rural area and this cabin should not detract from that.

Due to financial restrictions, this is where the applicant needs to build. There is not a viable alternative for the applicant and his family to live in. Without a variance they will not have a good living situation. The Zoning Ordinance does not allow any permanent use of the property at this time. The applicant is willing to work with the county to comply with the recommended conditions.

Most of the correspondence is more personal and not relevant to this case. One or two individuals involved with Northland Township are adjoining property owners. The applicant has denied the allegations brought up in the correspondence.

Granting the variance would allow the applicant to expand on the improvements already started on the property.

Two members of the audience spoke.

Roberta Pirkola, 8028 Forest Court Road, Canyon, stated she is not in favor of this. She spoke with the applicant in 2019 when he was at the property cutting trees with the landowner and discussed the property line. She owns property on both sides of the applicant's property. She is also the Northland Township clerk and a non-voting member of the Town Board. She is concerned that the applicant has been living in a RV and used the addition as living space for their dogs. However, the applicant was dumping greywater onto their adjoining property and trees have died because of that. There was fill brought in and removed a lot of the trees. She has worked with Lake Country Power and St. Louis County to maintain the habitat that had been out there. She would not accept a 300 gallon privy. That would not take care of wastewater from the camper. Where would that wastewater go? She purchased her lots from the St. Louis County auction and other private landowners in order to keep the property natural. She is afraid for all that live on the road that there will be repercussions from the applicant. The property values have been diminished because of the applicant's actions.

Merrill Anderson, 7969 White Pine Drive, stated he is a supervisor for Northland Township and is not speaking as a supervisor and read his previously submitted correspondence into the record. The variance should not be approved. The overall character of the area would not be preserved by granting this variance. Nearby properties are year-round or seasonal homes, well-maintained, sized and spaced for safety, in a rural setting. The Ordinance requirements of 0.5 acre and a setback of 20 feet are important criteria to preserve the character of the area. The township's inspection from October 24 indicated that tree cover is minimal within the building site and good along the property lines. The tree cover has been greatly reduced on the parcel and is minimal around the perimeter. There are no exceptional circumstances to warrant granting the variance request. The applicant knew or should have determined the zoning rules pertaining to minimum lot size and setbacks before acquiring the properties. Granting the variance would unnecessarily compromise and make meaningless the requirements of Zoning Ordinance 62 to the detriment of the community.

No other call-in users, present audience members or other virtual attendees spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked where the road is located. *Mark Lindhorst* stated there is a road behind the existing trees and a frontage road on the side of the property.
- B. Board member *Skraba* asked how this lot was created. *Mark Lindhorst* stated these are all platted lots including this lot.
- C. Board member *Pollock* stated he saw this was non-permittable and non-buildable. *Mark Lindhorst* stated these lots of record are all over the county and he never saw information stating that the property was unbuildable.
- D. Board member *Pollock* stated that the application indicated water storage tanks would be used in the new dwelling. *Jake Stonesifer* stated that there are two 250 gallon water storage tanks. *William Trautman* added that the wells in this area are bad. They use 300 gallon water storage tanks. One is used to fill the other container. There is an inline water pump that works off electricity. This tank could last up to two months. This is located in an insulated building.
- E. Board member *Pollock* asked if the applicant has discussed a new septic. *William Trautman* stated they have met with a designer that will also do the survey for them and look for the best location for a septic tank. They currently have a privy permit. Board member *Pollock* stated that while a variance may be granted, the applicant still needs to follow septic rules. *Jake Stonesifer* stated he did talk with the county about the septic issue.
- F. Board member *Manick* asked how long this property has been owned. *Jake Stonesifer* stated the applicant has owned the property for some time. The original landowner, Mr. Jensen, had health issues that made it difficult to sign a deed, but the deed was signed a few months ago. There were no restrictions on this deed. Board member *Manick* stated the Northland Township resolution did note ten items and added some of the concerns may be legitimate.
- G. Board member *Manick* stated Attachment A was a violation notice sent to Mr. Jensen July 19, 2021. What was the applicant's response to that violation? *Jake Stonesifer* stated that the violation did make its way to the applicant. His services were retained, and he reached out to the County Attorney's Office to ask what was needed to address the situation. There was a two part response. One was to get the second RV off of the property. The other response was a structure was there without a land use permit. This variance is to address that structure. This structure would be either incorporated into the new dwelling or would be used as a storage shed.
- H. Board member *Manick* asked what the addition was to an RV. *Jake Stonesifer* stated that the structure was part of the RV. *Mark Lindhorst* added that the structure is what remains after the second RV was removed from the site. That structure will be included in a new dwelling if the variance is approved for this property. *Jenny Bourbonais*, Acting Secretary, stated this is part of the variance proposal.
- I. Board member *Skraba* asked if there is a concrete floor in the shed or if it is just ground. *William Trautman* stated it is just three quarters plywood. When they built that addition to the camper, they were told they could have a 10 foot by 20 foot addition. They purchased this property in 2020. At that time, they tried to find out what they could do with the property. The property was platted in the 1920s and was grandfathered in. He was told they would need a land use permit for any structure on the property. They had a Sheriff Deputy

stop and ask about the septic system. The problem was getting the property into his name. Once he had the property in his name, he started applying for permits. He was contacted by Jenny Bourbonais regarding the violation and was told that the prior information he had been given was not correct.

- J. Board member *Skraba* stated the applicant has been trying to get into compliance and are agreeing to all the conditions of this variance. *William Trautman* stated all of the work on the property was done by him and his son.

FIRST MOTION:

Motion by McKenzie/Manick to deny a variance request to allow a dwelling on a 0.24 acre parcel located 15 feet from the property line where 20 feet is required, based on the following facts and findings:

A. Official Controls:

1. St. Louis County Zoning Ordinance 62, Article IV, Section 4.4 D., requires 0.5 acre per single lot of record to be permitted as buildable. The proposed undeveloped lot is 0.24 acre.
2. Zoning Ordinance 62, Article III, Section 3.2, requires a 20 foot property line setback in a Shoreland Multiple Use (SMU)-7 zone district. The applicant is proposing 15 feet.
3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
4. Objective LU-3.3 of the St. Louis County Comprehensive Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statute 394.22. Subd.10.
5. Official controls exist to create appropriate land use controls to protect property values for not only the owner but nearby property owners who might be affected by the use of the property.
6. Land use controls can also dictate such things as lot sizes and structure setbacks to control density and contribute to public safety.
7. The variance request is not in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. Lot size and width limit building potential without variance. A structure width of 10 feet would allow a structure to meet property line setbacks.
2. The structure will meet all other ordinance requirements.
3. Any practical difficulty planned or cited by the owner should be considered self-created. The parcel, apparently recently purchased, is too small to begin with and not appropriately sized for the proposed structure without directly affecting adjoining property owners by infringing on setbacks created by ordinance and which were created originally to protect structures on neighboring parcels.
4. Practical difficulty has not been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The location of the applicant's parcel can be described as a small, neighborhood, lakeshore property. The applicant's parcel is a small, non-riparian backlot located across a road from lakeshore properties.
2. Several items of correspondence received from three neighbors and the Town Board state actions of the applicant that were in violation of Zoning Ordinance 62. Officially, a letter was sent to a different landowner to the parcel in question by St. Louis County Land Use Manager Jenny Bourbonais in July 2021 describing several violations.
3. The variance request would alter the essential character of the locality.

D. Other Factor:

1. Three letters received from adjoining property owners and a resolution received from Northland Township as well as two that spoke at this meeting have all been in opposition.

In Favor: Manick, McKenzie - 2

Opposed: Coombe, Pollock, Skraba, Werschay - 4

Motion fails 2-4

DISCUSSION ON FIRST MOTION

- A. Board member *Werschay* asked if the applicant would have been allowed to remove all of the trees on their own property. *Mark Lindhorst* stated that there are no Ordinance provisions against cutting down trees on backlots.
- B. Board member *Coombe* stated that the applicant may not have known zoning laws. This could have been done by anyone. This is a legal lot of record and should be taken into consideration. To deny variance to build a compatible structure on a small piece of property would be unjust. He understands where Northland Township is coming from. Board member *Werschay* agreed and added a lot that was created in 1924 is already there. Someone has paid good money for a property they should be able to use and develop it.
- C. Board member *Coombe* stated this is a non-riparian lot within a shoreland district.
- D. Board member *Manick* stated in the Northland Township resolution, there was a statement made that no survey was done. If the applicant is cutting down trees on their own property, that is one thing. The question is whose trees were cut down.
- E. Board member *Skraba* stated a majority of the township's issues are remedied with conditions on this motion. The applicant can figure out how to follow these conditions. He disagrees with the statement that there are no exceptional circumstances to warrant granting a variance request.
- F. Board member *Pollock* stated if the applicant gets the variance there will be neighboring property owners, Northland Township and this Board of Adjustment ensuring compliance of every rule and regulation.
- G. Board member *Coombe* stated it is difficult to force someone to get a survey.
- H. Board member *Pollock* asked if there should be a requirement to get this taken care of in a certain period of time because this could get stagnated.
- I. Board member *McKenzie* stated a letter was sent to the original landowner in July 2021. The violation had been taking place long before the county sent a letter to anyone. Violations do not take place right away and are ongoing for some time. None of this has

been corrected. While Board of Adjustment members have great hopes, there has still been no action taken to resolve this.

- J. Board member *Skraba* stated it will be up to the applicant to utilize the existing accessory structure as a shed (accessory structure) or to use it as part of the new dwelling. *Jenny Bourbonais* stated that staff will ensure that this structure is brought into compliance.
- K. Board member *Coombe* stated there is no time limit to finish a structure. *Jenny Bourbonais* stated that a land use permit is good for two years. Board member *Coombe* stated he does not want a structure sitting there unfinished after years. He requested a condition for unobtrusive colors be added.

DECISION

Motion by *Skraba/Coombe* to approve a variance to allow a dwelling on a 0.24 acre parcel located 15 feet from the property line where 20 feet is required, based on the following facts and findings:

A. Official Controls:

- 1. A lot of record can be used with minimal variances to accommodate a dwelling.
- 2. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

- 1. The applicant has been working with staff to learn the rules and has agreed to follow them. The conditions will help comply with the official controls.
- 2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

- 1. A developed lot is better than an undeveloped lot. There will be a home with a family on it living by the standards set forth. That is a good thing for the community.
- 2. The variance request will not alter the essential character of the locality.

D. Other Factor:

- 1. The applicant is working on bringing the property into compliance.

The following conditions shall apply:

- 1. A certificate of survey shall be completed prior to issuance of a permit to ensure setbacks are being met.
- 2. All other Zoning Ordinance requirements shall be met.
- 3. St. Louis County On-site Wastewater SSTS standards shall be followed.
- 4. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.

In Favor: Coombe, Pollock, Skraba, Werschay - 4

Opposed: Manick, McKenzie - 2

Motion carried 4-2

Motion to adjourn by *Skraba*. The meeting was adjourned at 3:43 p.m.