

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY THURSDAY, APRIL 8, 2021.

10:45 AM – 12:43 PM

Board of Adjustment members in attendance: James McKenzie
Dave Pollock
Roger Skraba
Ray Svatos
Diana Werschay, Chair

Board of Adjustment members absent: Steve Filipovich

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

NEW BUSINESS:

- A. Reid and Kari Bornhoft, S21, T60N, R19W (Unorganized)
- B. Joe Leoni, S27, T58N, R16W (Biwabik)
- C. Gary Drilling, S33, T61N, R12W (Unorganized)
- D. Thomas Burandt, S34, T62N, R14W (Eagles Nest)

OTHER BUSINESS:

Motion by Skraba/McKenzie to approve the minutes of the March 11, 2021 meeting.

In Favor: McKenzie, Pollock, Skraba, Svatos, Werschay – 5

Opposed: None – 0

Motion carried 5-0

NEW BUSINESS:

Case 6247 – Reid and Kari Bornhoft

The first hearing item was for Reid and Kari Bornhoft, property located in S21, T60N, R19W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62 Article IV, Section 4.4 D, to allow a lot that does not meet the definition of a lot of record to be permitted as buildable. *Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval for a parcel that is not classified as a nonconforming legal lot of record to be considered buildable.
- B. The parcel is a back lot near the applicant's lake lot.
- C. The parcel appears to have been created in 1999.
- D. The parcel is 0.6 acre in size where 4.5 acres is required.
- E. The applicant is proposing to build two accessory structures on the property.
- F. The applicant indicated that the max lot coverage would not be exceeded.

Jared Ecklund reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62 states that a single nonconforming lot of record may be permitted as buildable if the lot meets the definition of a lot of record.
 - a. The parcel was created in 1999. It would have to have been created prior to August 8, 1977 to be considered a lot of record.
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 Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted Minnesota Statute 394.22 Subd. 10.

B. Practical Difficulty:

1. The parcel is a portion of a piece of property that was split off from the Government Lot by CSAH 65 and White City Road, both of which are public roads.
 - a. Had the property that was split by the public roads remained intact, it would be considered a lot of record.
2. If the property were considered a lot of record, it would meet the minimum size requirements to be considered buildable.
 - a. A lot of record needs a minimum of 0.5 acre to be considered buildable.
3. The only alternative would be to correct the issue by combining the parcel with the remainder of the property that was split by the public roads.
 - a. The other parcel is owned by another private landowner.

C. Essential Character of the Locality:

1. There are not many small back lots in this general area.
 - a. The vast majority of the lake lot owners in this area do not own back lots.
2. The subject parcel is part of a Government Lot that has been split several times in the past.
 - a. Some of the splits have to do with the public roads, some do not.
3. It does not appear there have been any similar variances in the area in the past.

D. Other Factor:

1. At the time that the parcel was created, it was not required that splits were reviewed by the Planning and Community Development Department.
 - a. This led to the creation of many nonconforming parcels that do not meet the definition of a lot of record.

Jared Ecklund noted and read into the record one item of correspondence from Gregory E. Kishel with concerns about the applicant's request. This correspondence had been provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a lot that does not meet the definition of a lot of record to be permitted as buildable, the following conditions shall apply:

1. The development on the property shall not include any living or sleeping quarters.
2. The parcel shall only be used for accessory structures and/or an on-site sewage treatment system.
3. All county, state and federal regulations shall be met.
4. The requirements of the Wetland Conservation Act shall be met.
5. The lot coverage shall not exceed 10 percent of the lot area.

Reid Bornhoft, the applicant, stated they are the sole owners of this property. They want to build a garage. They purchased this land in 1999 for the future purpose of adding the garage.

One member of the audience spoke.

David Kishel, 2012 South Early Dawn Drive, Spokane Valley, WA, stated he is the owner of record of the property that sent correspondence for this case. There are five landowners on their property. They are concerned because this property is on a corner and there can be a lot of traffic. Their family would lose their ability to park on the edge of the road if there is a driveway going to the applicant's parcel. Their second concern is they would not be able to place a septic system on their lot if they chose to sell it one day. Their third concern is whether or not there will be electricity to the garage; specifically, motion lights that would turn on and off as traffic moves up and down the road. There is enough property on the applicant's lake lot to build a garage on that parcel and not build it across the road.

No other audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *McKenzie* asked if these two parcels were created when St. Louis County reconstructed the highway. *Jared Ecklund* stated that the land between the two public roads was created by those public roads. This was originally part of a Government Lot on the other side of Highway 65. Another landowner split this land into two pieces, which is the reason the lot of record status was lost. Had both lots remained whole, this variance would not be necessary.
- B. Board member *Skraba* asked if this is the only landowner on this parcel as it appeared there were five. *Jared Ecklund* stated the neighbor to the north sent in correspondence indicating there were several landowners for their parcel, not the applicant's.
- C. Board member *Svatos* asked if there is a structure on the parcel to the south because that parcel looks smaller. *Jared Ecklund* stated the parcel to the south does have development on it. This is a potential land use violation that will be addressed.
- D. Board member *McKenzie* asked if the site sketch accurately represents where the structure would be built. *Reid Bornhoft* stated it is accurate. Board member *McKenzie* asked if there would be any way for the structures to be moved to alleviate the neighbor's concerns. *Reid Bornhoft* stated they do know where the structures could be moved to. *Kari Bornhoft* added

that they are trying to place these structures closer to where their cabin is located. They want to leave as much natural vegetation and trees as possible.

- E. Board member *McKenzie* asked what the road centerline setback is for White City Road. *Jared Ecklund* replied that White City Road has a 48 foot road centerline setback.
- F. Board member *Werschay* asked if White City Road is a county road. *Jared Ecklund* replied White City Road is a public jurisdiction road; as this is an Unorganized Township, it would fall under the jurisdiction of St. Louis County Public Works. They would also address parking on the side of the road. Board member *Werschay* added that parking on the road should not be allowed anyway.

DECISION

Motion by Svatos/Skraba to approve a variance to allow a lot that does not meet the definition of a lot of record to be permitted as buildable, based on the following facts and findings:

A. Official Controls:

- 1. The variance request is partially in harmony with the general purpose and intent of official controls. The location of both county roads divided the property and limit where a garage may be placed.

B. Practical Difficulty:

- 1. The parcel is a portion of a piece of property that was split off from the Government Lot by CSAH 65 and White City Road, both of which are public roads.
- 2. Had this property that was split by the public roads remained intact, it would be considered a lot of record.

C. Essential Character of the Locality:

- 1. The variance request will not alter the essential character of the locality. This is a highly developed area.
- 2. There are not many small back lots in this general area.
 - a. The vast majority of the lake lot owners in this area do not own back lots.
- 3. The subject parcel is part of a Government Lot that has been split several times in the past.
 - a. Some of the splits have to do with the public roads, some do not.
- 4. It does not appear there have been any similar variances in the area in the past.

D. Other Factor:

- 1. The applicant's lake property does not have sufficient area to construct a garage.

The following conditions shall apply:

- 1. The development on the property shall not include any living or sleeping quarters.
- 2. The parcel shall only be used for accessory structures and/or an on-site sewage treatment system.
- 3. All county, state and federal regulations shall be met.
- 4. The requirements of the Wetland Conservation Act shall be met.
- 5. The lot coverage shall not exceed 10 percent of the lot area.

In Favor: McKenzie, Pollock, Skraba, Svatos, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Case 6248 – Joe Leoni

The second hearing item was for Joe Leoni, property located in S27, T58N, R16W (Biwabik). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.4, to allow a nonconforming principal structure to be replaced at a reduced shoreline setback where 75 feet is required. *Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval to replace a nonconforming dwelling at a shoreline setback of 50 feet where 75 feet is required.
- B. The current dwelling is located approximately 25 feet from the shoreline.
- C. The proposed, new dwelling will also include an attached garage.
- D. There is currently a seasonal dwelling, several accessory structures, a septic system that is planned to be replaced and a well.
- E. The applicant indicated that some of the accessory structures would be removed after the proposed structure is completed, if allowed by variance approval.
- F. The property is located on a point. There is a ridge that runs from northeast to southwest and the land on the western side of the property is low.
- G. Regardless of where a structure is placed, floodplain regulations will need to be addressed.

Jared Ecklund reviewed staff facts and findings as follows:

- A. Official Controls:
 - 1. Zoning Ordinance 62 states that the shoreline setback on a general development lake is 75 feet; the applicant is requesting approval for a reduced shoreline setback of 50 feet.
 - 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 applications 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 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. The property is somewhat unique due to the fact that it sits on a point on the shoreline.
 - a. This requires the shoreline setback to be met in multiple directions.
 - 2. The property is located on a ridge with floodplain in the lower portions of the property.
 - a. The floodplain regulations may require development to be located on the higher portion of the property near the east property line.
 - 3. It appears there are locations to meet the shoreline setback and avoid the floodplain.
 - a. These locations may require some excavation and fill to create a suitable building site.
 - 4. The location near the rear of a few accessory structures and parking area on the property may be a suitable location for a replacement dwelling.

- a. The applicant has stated that these structures would be removed after the proposed dwelling with attached garage are completed.
- b. This location would allow the shoreline setback to be met and be located above the floodplain elevation.
- c. This location may require some additional excavation and grading for the proposed structure, which may be necessary regardless of if the new dwelling was constructed in this location.
5. The applicant has started site prep for a garage in a location near the existing accessory structures.
 - a. This area may be located below the floodplain elevation, but could be a suitable location for a dwelling as long as floodplain standards are met.
6. The property has plenty of depth to allow a dwelling and detached accessory structure to meet the required shoreline setback.
7. It does not appear that the proposed septic system would prevent the development from meeting the shoreline setback.

C. Essential Character of the Locality:

1. The majority of the development in the area appears to meet the shoreline setback, but there are a few structures that are located approximately 50 feet from the shoreline.
2. There were variances approved on two properties within this plat. The variances on one property did not include shoreline setback variances.
3. The other property had two variances approved on the property for two separate dwellings to be located at a reduced shoreline setback.
 - a. One was approved at 59 feet from the shoreline, the other was allowed at 50 feet from the shoreline.
 - b. This property consists of three platted lots.
 - c. At the time of the approval, the practical difficulty indicated that there was limited area to meet the required shoreline setback.

D. Other Factors:

1. Although there may be some challenges with site prep, there does appear to be area on the property where a replacement dwelling could meet all requirements and setbacks.
2. St. Louis County Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

Jared Ecklund noted one item of correspondence sent in by the applicant further explaining their request. This correspondence had been provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a nonconforming principal structure to be replaced at a reduced shoreline setback where 75 feet is required, 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 proposed structure shall not directly discharge into the lake or on adjacent lots.
3. A plan to enhance vegetation and protect the shore impact zone shall be submitted, approved and implemented by the property owner prior to the issuance of a land use permit.
4. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
5. The requirements of the Minnesota Wetland Conservation Act shall be followed.
6. The requirements of St. Louis County Floodplain Management Ordinance 43 and FEMA floodplain standards shall be met.
7. The proposal shall adhere to all county, state and federal regulations.

Joe Leoni, the applicant, stated the reason they chose this location and the location of the accessory structures is because the property is in a floodplain. The previous landowner had indicated that the property floods. Having lived on another part of the lake, he added that property flooded every spring. Their contractor indicated they would not build in any low lying area. The guy putting in the fill for their detached garage stated he would not put in anything but a garage. Any dwelling placed in the low area would require pilings. When they had the septic designed, the designer stated that the septic could not be in the low-lying area. The septic will be a mound system located on the ridge near the three accessory structures. With the county's setbacks, he would otherwise not have a place to put a septic system. They had the property surveyed and staked. The proposed location is the only logical place to put a home that would allow a view of the lake and be practical. If the variance is approved, they would remove the old cabin and the three accessory structures.

No audience members spoke.

The Board of Adjustment discussed the following:

- A. Board member *Pollock* stated the correspondence had information on why it is necessary to build at the proposed location. Did staff find any justification for this variance when reviewing the correspondence? *Jared Ecklund* stated staff did review the information, which they considered additional information as submitted by the applicant. Based on this review, the information did not change any of staff's recommended conditions or alternative locations.
- B. Board member *McKenzie* asked if the ridge line is behind the current structures. *Jared Ecklund* stated that there was some excavation work done when placing the accessory structures. Board member *McKenzie* stated that if the new structure was placed in the area where the accessory structures are currently, would it be further away from the low area to the west. Would the structure still be located within the shoreline setback? *Jared Ecklund* stated that staff's alternative location was slightly west of the accessory structures in order to meet shoreline setbacks. Moving the structure further back, the structure could still be located higher.
- C. Board member *Werschay* asked what size addition the applicant would be allowed on the current structure? *Jared Ecklund* stated that based on the current 25 foot shoreline setback, the current structure would be allowed a maximum addition size of 200 square feet.

- D. Board member *Svatos* asked if the accessory structures are visible from the lake. *Jared Ecklund* stated they can be visible from certain angles. The structures do meet shoreline setbacks.
- E. Board member *Skraba* commented that the applicant's additional information from the dirt mover and contractor seemed convincing. Board member *Pollock* agreed.
- F. *Jenny Bourbonais*, Acting Secretary, clarified there was some confusion as if to whether the applicant knew which location staff was proposing as an alternative location. Staff would not recommend an alternative location on the western side of the property. *Joe Leoni* stated staff's alternative building location is on the western, flat part of the ridge. This is where he would have placed a septic. If they had to move the septic elsewhere, it would be on the western part of the lot. The septic designer stated they could not place a septic there. The only place to put a mound system was on the eastern part of the ridge, which is where staff's alternative building location is.
- G. Board member *McKenzie* stated that while the structure could have been moved further back towards the location where the three accessory structures are located, it would likely destroy the lot.
- H. Board member *Pollock* stressed that it was important to include the applicant's additional information on stating why the proposed location for the structure was the best location for the new structure. Board member *McKenzie* added that staff did not suggest an alternative location in a low area; the contractors may have been misled on the location.

DECISION

Motion by *Skraba/McKenzie* to approve a variance to allow a nonconforming principal structure to be replaced at a reduced shoreline setback where 75 feet is required, based on the following facts and findings:

A. Official Controls:

- 1. The variance request is in harmony with the general purpose and intent of official controls. The property has attributes which limit where a new building can be located.
- 2. The current dwelling is located 25 feet from the shoreline and will be removed. The new dwelling will be located 50 feet from the shoreline.
- 3. Objective LU-3.3 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. The property is somewhat unique due to the fact that it sits on a point on the shoreline.
 - a. This requires the shoreline setback to be met in multiple directions.
- 2. The property is located on a ridge with floodplain in the lower portions of the property.
 - a. The floodplain regulations may require development to be located on the higher portion of the property near the east property line.
- 3. Additional information from the applicant included letters from contractors on why the proposed location is the best location for a new dwelling.

C. Essential Character of the Locality:

- 1. The variance will not alter the essential character of the locality.

2. The majority of the development in the area appears to meet the shoreline setback, but there are a few structures that are located approximately 50 feet from the shoreline.
3. There were variances approved on two properties within this plat. The variances on one property did not include shoreline setback variances.
4. The other property had two variances approved on the property for two separate dwellings to be located at a reduced shoreline setback.
 - a. One was approved at 59 feet from the shoreline, the other was allowed at 50 feet from the shoreline.
 - b. This property consists of three platted lots.
 - c. At the time of the approval, the practical difficulty indicated that there was limited area to meet the required shoreline setback.

D. Other Factor:

1. Expert contractors have proven that the proposed location will work for a new dwelling.

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 proposed structure shall not directly discharge into the lake or on adjacent lots.
3. A plan to enhance vegetation and protect the shore impact zone shall be submitted, approved and implemented by the property owner prior to the issuance of a land use permit.
4. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
5. The requirements of the Minnesota Wetland Conservation Act shall be followed.
6. The requirements of St. Louis County Floodplain Management Ordinance 43 and FEMA floodplain standards shall be met.
7. The proposal shall adhere to all county, state and federal regulations.

In Favor: McKenzie, Pollock, Skraba, Svatos, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Case 6249 – Gary Drilling

The third hearing item was for Gary Drilling, property located in S33, T61N, R12W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal structure replacement to be located at a reduced property line setback, and relief from St. Louis County Zoning Ordinance 62, Article II, Section 2.4, F., to exceed 55 percent lot width facing the lake. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to replace an existing 1,232 square foot dwelling with a 2,444 square foot dwelling.

- B. The proposed dwelling will be located 10 feet from property line where a 15 foot setback is required and will exceed 55 percent lot width facing the lake.
- C. The existing dwelling conforms to both setback and lot width requirements.
- D. In 2019, the applicant was approved a variance to allow additions to the existing dwelling and to exceed 55 percent lot width facing the lake.
- E. The applicant is now requesting to remove and replace the existing dwelling with a similar configuration similar to what was approved in the 2019 variance.

Stephen Erickson reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Zoning Ordinance 62 requires a 15 foot property line setback within a Shoreland Multiple Use (SMU)-11 zone district. The applicant is requesting a 10 foot property line setback.
- 2. Zoning Ordinance 62 states that structure width facing the lake shall not exceed 55 percent of the lot width when located at a conforming shoreline setback.
- 3. St. Louis County Comprehensive Land Use Plan states Goal LU-3: Improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
- 4. Objective LU-3.1 of the St. Louis County Comprehensive Land Use 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.

B. Practical Difficulty:

- 1. The existing dwelling conforms to the required property line setback of 15 feet and 55 percent lot width.
- 2. The parcel is approximately 87 feet wide at the building site; a structure 48 feet wide would be allowed.
- 3. There are alternatives that would not require a variance:
 - a. A conforming structure could be re-constructed on the parcel.
 - b. Additions could be constructed in accordance to the 2019 approved variance.

C. Essential Character of the Locality:

- 1. The parcel was granted a variance in 1974 from minimum lot width in a W-3 (SMU-11) zone district. The 1974 variance does not indicate the reasoning or approval criteria.
- 2. The parcel was granted a variance in 2019 to allow additions to the existing dwelling at reduced property line setbacks and to exceed 55 percent lot width facing the lake.

D. Other Factors:

- 1. The existing dwelling conforms to Ordinance requirements.
- 2. There is space on the parcel to construct a conforming dwelling since the applicant is now requesting a replacement structure.
- 3. This is an opportunity to bring the parcel into compliance.
- 4. 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.

5. The applicant has not met the burden of demonstrating a practical difficulty as proposed due to the fact that there is suitable area for a structure to meet ordinance requirements.
6. The applicant was approved a Land Use Permit in 2019 to construct a 60 foot by 32 foot accessory structure on a nearby parcel.

Stephen Erickson noted no items of correspondence.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow a principal structure replacement to be located at a reduced property line setback and to exceed 55 percent lot width facing the lake, the following conditions shall apply:

1. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
2. The 2019 variance shall be revoked.

Gary Drilling, the applicant, stated they are approaching their elderly years and would like an attached garage to go in and out of the house in the winter. They are setting their new dwelling so that they have enough room to back out of the garage and go up the driveway. The attached screen porch is to be outdoors and enjoy fresh air. They are keeping the existing basement and building on top. The existing home is modular and has little insulation; they want to upgrade to a more modern and efficient house.

No audience members spoke.

The Board of Adjustment discussed the following:

- A. Board member *Skraba* asked how far back the structure will be from the lake. *Gary Drilling* stated the new structure will be about 180 feet from the shoreline.
- B. Board member *Skraba* asked if the 2019 variance would have also been for property line setbacks. *Stephen Erickson* stated it was for property line setbacks and lot width.
- C. Board member *Pollock* asked if staff had alternative building sites. *Stephen Erickson* stated there is no map with those alternatives, but there is ample room on the property to construct a new dwelling. The current structure meets the lake and property line setbacks. *Jenny Bourbonais*, Acting Secretary, added that there is ample room on the property to build a structure that will meet all setbacks. The proposed structure could be reconfigured or moved to meet all requirements.
- D. Board member *Pollock* stated that if the applicant wants to use the existing foundation, they could reconfigure the structure to meet the property line setbacks. Board member *Skraba* agreed that parts of the structure could be reconfigured to meet all requirements. *Gary Drilling* stated that they currently back out of the property onto the neighbor's driveway, which is a resort property and their driveway. They are currently allowed to do this. In the future, should ownership change or individual lots be sold off, they might lose the ability to use that driveway. If they set it back 12 feet further, they would have plenty

of room to back out of their property and go up the driveway. This is why they requested the property line setback variance.

DECISION

Motion by McKenzie/Skraba to approve a variance to allow a principal structure replacement to be located at a reduced property line setback and to exceed 55 percent lot width facing the lake, based on the following facts and findings:

A. Official Controls:

1. The variance request is in harmony with the general purpose and intent of official controls. The applicant will reconstruct their dwelling on top of an existing foundation. The lot line tapers towards the rear.
2. Zoning Ordinance 62 requires a 15 foot property line setback within a Shoreland Multiple Use (SMU)-11 zone district. The applicant is requesting a 10 foot property line setback.
3. Zoning Ordinance 62 states that structure width facing the lake shall not exceed 55 percent of the lot width when located at a conforming shoreline setback.
4. One of the goals of the St. Louis County Comprehensive Land Use Plan is to promote health and safety as well as orderly development. The applicant wishes to build a home for their retirement years which is a reasonable goal.

B. Practical Difficulty:

1. The proposed dwelling will use an existing foundation which dictates the location of the proposed attached garage and other parts of the new construction.
2. The location of the garage will allow the applicant to back out on their own property and then access the driveway.

C. Essential Character of the Locality:

1. The variance will not alter the essential character of the locality. The locality consists of lake cabins and a resort.
2. Replacing the existing dwelling with a new dwelling of the same approximate size will not be a new use for the area.

D. Other Factor:

1. In 2019, the applicant was approved a variance for additions to the existing dwelling that would exceed 55 percent lot width. The applicant is now asking to remove and replace the existing dwelling with a new dwelling in the same location with similar configurations.

The following conditions shall apply:

1. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
2. The 2019 variance shall be revoked.

In Favor: McKenzie, Pollock, Skraba, Svatos, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Case 6250 – Thomas Burandt

The fourth hearing item was for Thomas Burandt, property located in S34, T62N, R14W (Eagles Nest). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, D., to allow an addition to a nonconforming principal structure that will exceed square footage allowed. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a 304 square foot addition to the side of a nonconforming dwelling.
- B. The existing dwelling is nonconforming to the shoreline setback at a distance of 45 feet where a 100 foot shoreline setback is required.
- C. The height of the structure may increase slightly from the existing height of approximately 22 feet.
- D. The applicant would be allowed a 200 square foot addition with a performance standard permit.

Stephen Erickson reviewed staff facts and findings as follows:

- A. Official Controls:
 1. Zoning Ordinance 62 allows up to a 200 square foot addition for a nonconforming principal dwelling located between 25 feet and the shore impact zone. The applicant is requesting a 304 square foot addition.
 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.
- B. Practical Difficulty:
 1. In 2003, a variance was approved on the parcel to allow a third-story addition to the existing two-story nonconforming structure with a total height of 32 feet.
 2. There are alternatives that do not require a variance:
 - a. The structure would be allowed an addition up to 200 square feet through a performance standard permit.
 - b. Construct an addition that conforms to the approved 2003 variance.
- C. Essential Character of the Locality:
 1. There has been one variance already approved on the parcel in 2003.
 2. The plat of Sunshine Beach was created in 1951.
- D. Other Factor:
 1. Due to the existing structure location on the parcel, any additions will be limited to 200 square feet.

Stephen Erickson noted one resolution from the Town of Eagles Nest in opposition to the variance request. This correspondence had been provided to the Board of Adjustment prior to the hearing.

STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow an addition to a nonconforming principal structure that will exceed square footage allowed, 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 proposed structure shall not directly discharge into the lake or on adjacent lots.
3. The previous variance from 2003 shall be revoked or limited to a height of 25 feet as allowed within the shore impact zone for nonconforming principal structures.

Thomas Burandt, the applicant, stated one of the Eagles Nest Township supervisors lived nearby and visited the property. They were not even aware the applicant would be allowed to add 200 square feet onto the property. If the house was located 5 feet further back from the shoreline, he would have been allowed a 400 square foot addition. At one point, they considered a 200 square foot addition on the left side of the property which would have increased the view from the lake. Based on the location of the plumbing inside of the structure, they are proposing an addition on the right side. There are two small bedrooms and one bathroom located on the property. By building on the right side of the property, they would remove the existing porch. They would not use the approved 2003 addition. It would cost more than \$200,000 to build a third story on the structure. They would also not be able to add a lift or elevator to the third floor without considerable cost. This property has been in the family since the 1950s. They have done little rehabilitation on the actual dwelling, but they have cleaned up the property. The new addition would not impact the visibility from the shoreline at all as compared to what they could have built with the 200 square feet allowed.

No audience member spoke.

The Board of Adjustment discussed the following:

- A. Board member *Skraba* asked why the Town of Eagles Nest opposed this variance. *Jenny Bourbonais* read the resolution into the record. The applicant's residence is only 45 feet from the lakeshore on the southeast side. The proposed addition on the structure's southwest side would fall entirely in the shoreline setback and partially in the shore impact zone. The dwelling could be expanded on the northwest side away from the lake with little, if any, additional visibility from the lake.
- B. Board member *Skraba* asked why the applicant cannot build to the rear and not to the side. *Thomas Burandt* stated in order to build to the rear, they would have to change the roofline and reconstruct the entire interior. Their intention is to build a living room on the second story and a bedroom on the lower level. There is a cement wall going through the center of the house. They would also need to remove a number of red and white pine trees if they built behind the structure. Building their proposed addition would only remove one birch tree.
- C. Board member *Skraba* asked if there would be a permanent foundation. *Thomas Burandt* stated yes; it will be poured concrete and will be more energy efficient than what there is right now.

- D. Board member *Werschay* stated it would help if they could get rid of the 2003 variance approval for a 32 foot tall structure. Board member *Skraba* agreed. He does not believe that the township would want to see a 32 foot tall structure.
- E. Board member *Werschay* added that the applicant is asking for less square footage than what would be allowed if the structure were 50 feet from the shoreline. The applicant is requesting 304 square feet where 400 feet would be allowed at a 50 foot shoreline setback.
- F. Board member *Pollock* added there is the applicant's health and safety to consider as well.

DECISION

Motion by Skraba/McKenzie to approve a variance to allow a 304 square foot addition to a nonconforming principal structure that will exceed square footage allowed, based on the following facts and findings:

A. Official Controls:

- 1. The variance request is partially in harmony with the general purpose and intent of official controls.
- 2. The applicant was approved a variance in 2003 to construct a third story addition with a structure height of 32 feet. The currently proposed addition would be better than the addition approved with the 2003 variance.
- 3. The addition would increase the structure width by 12 feet and the structure is only located 45 feet from the shoreline.
- 4. Zoning Ordinance 62 allows up to a 200 square foot addition for a nonconforming principal dwelling located between 25 feet and the shore impact zone. The applicant is requesting a 304 square foot addition.
- 5. 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.
- 6. 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.

B. Practical Difficulty:

- 1. In 2003, a variance was approved on the parcel to allow a third-story addition to the existing two-story nonconforming structure with a total height of 32 feet.
- 2. The applicant is trying to minimize the addition size with a proposed 304 square foot addition to the side which is reasonable compared to the 2003 variance approval which approved a third-story addition.
- 3. One of the goals of the St. Louis County Comprehensive Land Use Plan is to promote health and safety of the applicants as they age.

C. Essential Character of the Locality:

- 1. The variance will not alter the essential character of the locality.
- 2. There has been one variance already approved on the parcel in 2003.
- 3. The plat of Sunshine Beach was created in 1951.

D. Other Factor:

1. By revoking the 2003 variance, there will be no third-story construction.
2. The addition will help with the health and safety of the applicants as they age.

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 proposed structure shall not directly discharge into the lake or on adjacent lots.
3. The previous variance from 2003 shall be revoked and the structure limited to a height of 25 feet as allowed within the shore impact zone for nonconforming principal structures.

In Favor: McKenzie, Pollock, Skraba, Svatos, Werschay - 5

Opposed: None - 0

Motion carried 5-0

Motion to adjourn by Svatos. The meeting was adjourned at 12:43 p.m.