

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD BOTH VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, AUGUST 11, 2022.**

10:03 AM – 12:54 PM

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

Board of Adjustment members absent: None - 0

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

**NEW BUSINESS:**

- A. Joanna Blake Smith, S4, T51N, R17W (Industrial)
- B. Northstar Design and Build, Inc., S24, T50N, R21W (Prairie Lake)
- C. Amy Conniff (Septic), S15, T62N, R16W (Greenwood)
- D. Amy Conniff (Land Use), S15, T62N, R16W (Greenwood)
- E. David Nolander, S32, T57N, R12W (Bassett)
- F. Hagenah Construction, S15, T51N, R17W (Industrial)

**OTHER BUSINESS:**

**Motion by Skraba/ Pollock** to approve the minutes of the July 14, 2022, meeting.

**In Favor:** Coombe, Filipovich, McKenzie, Pollock, Skraba, Svatos, Werschay – 7

**Opposed:** None – 0

**Motion carried 7-0**

**NEW BUSINESS:**

**Case 6320 – Joanna Blake Smith**

The first hearing item was for Joanna Blake Smith, subject property located in S4, T51N, R17W (Industrial). The applicant is requesting after-the-fact relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.2, to allow a second detached principal dwelling where there is only enough lot area for one. *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to continue to utilize a structure as a second principal dwelling where there is only enough lot area for one.
- B. The subject structure was built in 2005 as the only principal dwelling on the property by previous property owners.

- C. The same previous property owners applied for a permit for a new dwelling in 2010.
- D. The 2010 permit application stated that the 2005 dwelling was to be changed in use to an accessory structure (storage structure). This change in use was never done.
- E. The subject structure has existed as a second principal dwelling since 2010.
- F. The current owners purchased the property in 2017 not knowing that the previous owners failed to convert the 2005 structure to a storage structure.
- G. The property currently contains a permitted 2010 principal dwelling with an attached garage, the 2005 second principal dwelling, and a small shed.
- H. The property has good screening from all sides.

*George Knutson* reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Zoning Ordinance 62, Article III, Section 3.2, states minimum dimensional standards for each zone district. The subject parcel is zoned Multiple Use (MU)-4.
  - a. District 4 requires 4.5 acres and 300 feet in width. The subject parcel contains approximately 5 acres and 330 feet in width.
- 2. Zoning Ordinance 62, Article VI, Section 6.2, states residential administrative standards including those related to multiple principal dwellings.
  - a. More than one and up to four detached residential principal dwellings are allowed with a land use permit on a single parcel if there is sufficient lot area per structure to equal the minimum dimensional standard required in Article III and St. Louis County sewage treatment standards, and the structures are placed so the property can be divided at a later date into conforming lots, without variance.
  - b. The subject parcel only has enough width and acreage for one principal dwelling. The subject parcel would need to have nine acres and 600 feet in width for a second principal dwelling.
- 3. 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.
- 4. 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.
- 5. 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. The current owners did not own the property when the compliance issue originally took place and were not made aware of the issue when they purchased the property in 2017.
- 2. Alternatives that do not require variance exist:
  - a. Conversion of the structure to a storage structure as stated in the 2010 permit.
  - b. Conversion of the structure to meet accessory dwelling standards. This would require the structure to be reduced in size to 700 square feet. The current structure is approximately 1,176 square feet in size.

- c. Relocate the structure to an area that conforms with ordinance density standards.
- C. Essential Character of the Locality:
- 1. The applicant is not proposing a new use to the area. A majority of the parcels in the immediate area are utilized residentially.
  - 2. There have been no similar variances within the immediate area.
- D. Other Factors:
- 1. The property owners also own the adjacent parcel directly north of the subject parcel. Including both parcels, there is enough area for a second principal dwelling; however, the current location of the subject structure is placed improperly for density purposes.
  - 2. On-Site Wastewater did not pass record review of the septic system. The system will need to be inspected to determine proper sizing and may need to be upgraded if it is deemed undersized.
- E. Was the construction completed prior to applying for the variance? If not, what extent of the construction has been completed?
- 1. The subject structure was built in 2005 as the only principal dwelling on the property by previous property owners. The same previous property owners applied for a permit for a new dwelling in 2010. The 2010 permit application stated that the 2005 dwelling was to be changed in use to an accessory structure (storage structure). This change in use was never done. The 2005 dwelling has existed as a second principal dwelling since 2010.
  - 2. The current owners purchased the property in 2017 not knowing that the previous owners failed to convert the subject structure to a storage structure as the historic permit application stated.
- 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.

*George Knutson* noted no items of correspondence.

**STAFF RECOMMENDATION**

Conditions that may mitigate the after-the-fact variance for a second detached principal structure where there is only enough lot area for one as proposed include, but are not limited to:

- 1. St. Louis County On-Site Wastewater SSTS standards shall be followed.
- 2. No other dwellings shall be allowed on parcels 400-0010-00616 and 400-0010-00619 unless applicable density standards are met.
- 3. Any replacement of the structure shall meet applicable density standards.

*Joanna Blake Smith*, 7833 Highway 8, Culver, the applicant, stated in 2017 her family lived in Bozeman, MT and moved her family back to Minnesota. They bought this property because of the second dwelling. With her son's disability he will need long-term care. In June 2022 was the first

time they heard the previous landowner did not have permission to have a second dwelling. The outcome she is requesting is to use the property as it is. To change the property now would cost money and time. If this variance is not approved, she may consider legal action against the previous landowner. Staff alternatives are not reasonable; they cannot cut off 300 square feet, relocate the structure, or turn it into a garage.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Werschay* asked where in the application it was stated the dwelling was to be changed in use to a garage. *George Knutson* stated it was stated on the bottom of the site sketch that the structure would be converted.
- B. Board member *Coombe* asked if there is a density issue on this property as it is five acres in size. *George Knutson* stated the subject parcel only has enough area for one principal dwelling. The subject parcel is over the maximum density allowed.
- C. Board member *Pollock* asked if there would be a problem with two dwellings located side by side even if there was enough acreage. *George Knutson* stated that based on the location of these dwellings, the parcel would not be able to be subdivided so that both principal structures were at conforming setbacks.
- D. Board member *Werschay* asked if combining the applicant's other parcel with this subject parcel would help. *George Knutson* stated there would be enough acreage, but there would not be enough lot width at these two building sites. The dwelling would need to be moved behind the existing dwelling for that to work. The structures are not far enough apart to be on their own conforming lots.
- E. Board member *Pollock* stated that this is more of a legal issue between the previous landowner and the current landowner. This variance would help solve the problem.
- F. Board member *Skraba* asked if the variance is granted, would the condition limit any development on either parcel? *George Knutson* stated accessory structures could still be built, but the density would not allow another principal use.
- G. Board member *Skraba* asked what would happen to the variance if it were approved and one of the lots is sold. *Jenny Bourbonais*, Acting Secretary, stated there are other future opportunities to resolve the issues. If one dwelling is removed, replaced, or converted into another use, that property to the north could have another dwelling. There could be another dwelling if the subject property were properly subdivided. This condition would not preclude future development, but it would change the scope on how the property is currently used.
- H. Board member *McKenzie* asked if another variance request to combine the parcels would be a better approach to this problem. *George Knutson* stated no because that request would be to allow an undersized lot to be allowed for future development based on the current configuration. There would be two undersized lots because of lot width standards.
- I. Board member *Skraba* asked if the applicant could live with the condition that "No other dwellings shall be allowed on parcels 400-0010-00616 and 400-0010-00619 unless applicable density standards are met." *Joanna Blake Smith* stated yes. The five acre parcel north of the subject property is dense forest. Board member *Werschay* stated that the applicant could put an accessory structure on that parcel; they just would not be able to build another dwelling. Board member *Coombe* disagreed saying that the five acre parcel

should be left alone in the event that someone may want to build a dwelling on that forested parcel.

- J. Board member *Pollock* asked if the two properties could be one contiguous property and no other buildings would be allowed. *Jenny Bourbonais* stated there is nothing to preclude the parcels being combined into one contiguous parcel.
- K. Board member *McKenzie* asked if the second dwelling would be used as a short term rental. *Joanna Blake Smith* stated until their son is older and more independent, they will attempt to collect income by using the second dwelling as a short term rental. This has been a rental for a few years. They have allowed people to stay on weekends. This is what triggered the variance because they have collected lodging tax and submitting it to the County for the past few years. They are aware they need to get this permitted and licensed.
- L. Board member *McKenzie* asked if a variance is approved, would a conditional use permit be given for the short term rental. *Jenny Bourbonais* stated a conditional use permit would not be necessary based on the information on how the property is being used. The applicant would require a performance standard permit because the property would not be solely used as a commercial use.
- M. Board member *Skraba* asked if the parcel to the north should be a part of this request. Board member *Coombe* stated no, it should be a standalone parcel and not tied into the subject parcel. Board member *Pollock* stated that while there is not 600 feet of lot width for both dwellings, the extra acreage helps justify granting a variance. This second lot is a part of the property and should not be sold. Board member *Skraba* stated that would only be allowed if the second dwelling was no longer a dwelling. *Jenny Bourbonais* stated that nothing is being taken away from the applicant. There are options that would allow for alternatives if the landowner chooses.
- N. Board member *Werschay* stated the uniqueness of this case is that this happened through no fault of the applicants.

**DECISION:**

**Motion by Skraba/Filipovich** to approve an after-the-fact variance for a second detached principal structure where there is only enough lot area for one, based on the following facts and findings:

- A. Official Controls:
  - 1. With the second parcel, the request would be in harmony. However, the location of the second dwelling does not meet ordinance requirements for a second dwelling.
  - 2. The variance request is and is not in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
  - 1. The current owners did not own the property when the compliance issue originally took place and were not made aware of the issue when they purchased the property in 2017.
  - 2. Due to the previous landowner's lack of following through on their obligation to change the use on the second dwelling, the current landowner's bought the property to live and raise their children. Their reason for purchasing a property with two dwellings is their son needing to be in close proximity to them for long-term care.
  - 3. 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. A majority of the parcels in the immediate area are utilized residentially.
2. There have been no similar variances within the immediate area.
3. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The health and safety of the applicant and her family.
2. The second parcel to the north can be included in the size of the lot to partially justify allowing two dwellings on this property.

The following conditions shall apply:

1. St. Louis County On-Site Wastewater SSTS standards shall be followed.
2. No other dwellings shall be allowed on parcels 400-0010-00616 and 400-0010-00619 unless applicable density standards are met.
3. Any replacement of the structure shall meet applicable density standards.

**In Favor:** Filipovich, McKenzie, Skraba, Svatos - 4

**Opposed:** Coombe, Pollock, Werschay - 3

**Motion carried 4-3**

**Case 6321 – Northstar Design and Build Inc.**

The second hearing item was for Northstar Design and Build, Inc., subject property located in S24, T50N, R21W (Prairie Lake). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, to allow a second addition to a nonconforming principal structure located at a reduced shoreline setback where one is allowed. *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a 28 foot by 40 foot (1,120 square foot) single story addition to an existing 666 square foot nonconforming principal dwelling.
- B. The dwelling is located within the shore impact zone and is 50 feet from the shoreline where 150 feet is required.
- C. The addition will not decrease the shoreline setback.
- D. There is currently a dwelling, shed, vaulted privy and a driveway.
- E. The dwelling is well screened from the road, adjoining properties, and the lake by various vegetation types.
- F. There are wetlands on the property. The proposal will not require the filling of any existing wetlands.

*George Knutson* reviewed staff facts and findings as follows:

A. Official Controls:

1. The property is located on a Natural Environment Lake which requires a shoreline setback of 150 feet; the existing principal structure is located at a shoreline setback of 50 feet.
2. A nonconforming principal structure may be expanded once without a variance with a performance standard permit.

- a. The existing structure was previously expanded with an open porch addition in 2018.
3. 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.
4. 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.
5. 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. The subject property conforms to the minimum zoning requirements for lot size and width.
3. A variance is not the only option.
  - a. An accessory dwelling may be allowed at a conforming location on the property as there are areas that meet the required setbacks.

C. Essential Character of the Locality:

1. The area consists of large acreage parcels with low density development.
2. The applicant is not proposing a new use to the area as there are other residential properties in the area.
3. There is one additional dwelling on the lake which is approximately 50 feet from the shoreline.
4. There have been no similar variances in the area.

*George Knutson* noted no items of correspondence.

**STAFF RECOMMENDATION**

Conditions that may mitigate the variance for a second addition to a nonconforming principal structure located at a reduced shoreline setback where one is allowed as proposed include, but are not limited to:

1. The stormwater runoff from the structure shall not discharge directly into the lake.
2. All St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. If the dwelling is replaced, a replacement dwelling shall conform to ordinance standards.
4. No further expansion of the dwelling shall be allowed.

*Calvin Jacobson*, the contractor and applicant, *Maribeth* and *Mike Williamson*, the landowners, were present.

*Calvin Jacobson*, 1435 Heather Lane, Cromwell, the applicant, handed out a photograph of the Natural Environment lake. The lake itself is a sluice and is entirely green. There are beaver trails through the marsh. He met the landowners a few years ago when they wanted to add onto the

cabin. The previous landowner added onto the structure, and they were unaware that a permit had been approved for that porch/deck addition. This is a 120 acre piece of land west of Prairie Lake. The nearest dwelling is 1,000 yards across the lake. They purchased the property thinking it would be a nice location to build a retirement home. The project makes sense as they are not going any closer to the lake than the structure already is. The landowners take good care of the shoreline. They would mitigate any runoff that would go toward that lake. There would be a barrier during construction and the structure would have gutters running into a holding pond. The existing cabin has two bunk bed bedrooms, a kitchen, and a fireplace.

*Maribeth Williamson*, 8701 71<sup>st</sup> Street NE, Spicer, the landowner, stated they purchased the cabin in October 2019.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Werschay* asked if there is slope toward the lake. *George Knutson* stated there is some slope towards the lake. There is steeper slope behind the cabin.
- B. Board member *Pollock* asked if the existing structure could be an accessory dwelling and the addition be its own structure and meet all setbacks. *George Knutson* stated that the proposed structure could be reduced in size to what is allowed for an accessory dwelling and moved to a conforming setback and meet all accessory dwelling standards. The existing structure could not be converted to an accessory dwelling because the structure is at a nonconforming shoreline setback.
- C. Board member *Filipovich* asked if the setback was measured because the setback looks longer on the map. Some Natural Environment lakes look like swamp before there is any open water for a lake. *George Knutson* stated another staff member did measure the setback from the structure to the shoreline. It can be difficult to identify where the Ordinary High Water Level (OHWL) is located but staff determined a location for the OHWL and measured to that point.
- D. Board member *Filipovich* asked if the map provided was from the Minnesota Department of Natural Resources (DNR). *George Knutson* stated the map was taken from a county resource, but the layers in the map are from the DNR.
- E. Board member *Svatos* asked how this is even considered a lake. *Jenny Bourbonais*, Acting Secretary, stated this is a classified Natural Environment lake by the county; the county can be more restrictive than the DNR. The DNR does change classifications of lakes from time to time, but it is not known if that was done here.
- F. Board member *Pollock* stated there is a question if this is even a lake. That may impact the setback distance because this seems more like a wetland than a lake. If this was a wetland, the setback distances would be irrelevant.

## **DECISION:**

**Motion by Coombe/Skraba** to approve a variance for a second addition to a nonconforming principal structure located at a reduced shoreline setback where one is allowed, based on the following facts and findings:

- A. Official Controls:
  1. This is probably the best use of the existing dwelling and the land surrounding it.



2. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. There is a 666 square foot dwelling already in this location. The addition will be to the rear of the structure.
2. This is a Natural Environment lake that appears to be more of a wetland.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The area consists of large acreage parcels with low density development.
2. The applicant is not proposing a new use to the area as there are other residential properties in the area.
3. There is one additional dwelling on the lake which is approximately 50 feet from the shoreline.
4. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The structure will be earth-tone colors.
2. If this lake was a wetland, the setback requirements would be irrelevant and the variance would not be necessary.

The following conditions shall apply:

1. The stormwater runoff from the structure shall not discharge directly into the lake.
2. All St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. If the dwelling is replaced, a replacement dwelling shall conform to ordinance standards.
4. No further expansion of the dwelling shall be allowed.

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

**Opposed:** None - 0

**Motion carried 7-0**

**Case 6322 – Amy Conniff (Septic)**

The third hearing item was for Amy Conniff, subject property located in S15, T62N, R16W (Greenwood). 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 shoreline setback and a reduced property line setback. *Emily Anderson*, St. Louis County Environmental Specialist, reviewed the staff report as follows:

- A. The applicant is proposing to replace an existing noncompliant SSTS.
- B. The proposed ISTS replacement design would consist of a holding tank that would be 45 feet from the shoreline where 50 feet is required for a General Development lake.
- C. The system will be located three feet from the rear property line where 10 feet is required, and five feet from a side property line where 10 feet is required.
- D. The parcel has a 20 percent slope from the back of the parcel to the shoreline.

E. The property has good vegetative screening.

*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 and the setback requirements on the MN Shoreland Rules. The required setback is 50 feet from the shoreline for this General Development classification and 10 feet to a property line.
2. All other setbacks shall be met.
3. The applicant is requesting a reduced setback at 45 feet to the lake and three feet to the property lines. The required setback from a tank to a property line is 10 feet.

B. Practical Difficulty:

1. This is a long and narrow lot with a sand point well adjacent to the house that takes up much of the property.

C. Essential Character of the Locality:

1. The surrounding area is characterized by development.

D. Other Factor:

1. The applicant is replacing failing drywells and a privy.

*Emily Anderson* noted one item of correspondence from John and Judy Lambert in support of the variance request. This item was provided to the Board of Adjustment prior to the hearing.

### **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 shoreline setback of 45 feet and reduced property line setback of three feet as proposed include, but are not limited to:

1. All other On-site 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.

*Amy Conniff*, 2790 Hawk Ridge Road NW, Prior Lake, the applicant, stated this cabin has been in her family for over 60 years. They want to make use out of the property. This is a very small lot with 66 feet in depth and 33 feet of right-of-way. They will remove both the outhouse and existing system. They would like a shower which a holding tank would allow them to have. There was no choice as to the location of the proposed system.

*Jill Conniff* and *Kevin Conniff* were present virtually, both declined to speak.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if the rules are different for a sand point well. *Emily Anderson* if the well is shallow or sensitive, which a sand point well is, and a drainfield is required, the setback would be 100 feet. The tank is always 50 feet no matter what type of well it is. There is no location on this property that could meet a 100 foot setback from the well.
- B. Board member *Pollock* asked about the lot dimensions. *Amy Conniff* stated there is about 160 feet of shoreline and about 90 feet in depth, of which 33 feet is road right-of-way. Board member *Skraba* stated the acreage for the property is 0.2 acres.

**DECISION:**

**Motion by Skraba/Svatos** to approve a variance to allow a subsurface sewage treatment system installation at a reduced shoreline setback of 45 feet and reduced property line setback of three feet, 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 50 feet from the shoreline for this General Development classification and 10 feet to a property line.
- 2. All other setbacks shall be met.
- 3. The applicant is requesting a reduced setback at 45 feet to the lake and three feet to the property lines. The required setback from a tank to a property line is 10 feet.
- 4. The applicant is replacing a noncompliant SSTS.
- 5. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

- 1. This is a long and narrow lot with a sand point well adjacent to the house that takes up much of the property.
- 2. The new SSTS will need to meet a 50 foot well setback which limits where the system can be placed.
- 3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

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

D. Other Factors:

- 1. The applicant is replacing failing drywells and a privy.
- 2. There is only one place on the property for a new SSTS to fit because of the well.

The following conditions shall apply:

- 1. All other On-site 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, Filipovich, McKenzie, Pollock, Skraba, Svatos, Werschay - 7

**Opposed:** None - 0

**Motion carried 7-0**

**Case 6323 – Amy Conniff (Land Use)**

The fourth hearing item was for Amy Conniff, subject property located in S15, T62N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Ordinance 62, Article III, Section 3.4, to allow a replacement dwelling at a reduced shoreline setback where 75 feet is required, and Article III, Section 3.7, to allow a dwelling at a reduced right-of-way setback where 15 feet is required. *Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing to replace a nonconforming 600 square foot cabin with a 1,188 square foot cabin.
- B. The proposed cabin will be located 26 feet from the shoreline where 75 feet is required and two feet from the right-of-way where 15 feet is required.
- C. The parcel contains a cabin, a sauna, and an outhouse to be abandoned.
- D. The property has good vegetative screening.
- E. The parcel contains a 20 percent slope from the back of the parcel to the shoreline.
- F. The parcel is part of a plat that was approved in 1917. Many of the parcels are nonconforming with reduced setback structures.

*Mark Lindhorst* reviewed staff facts and findings as follows:

- A. Official Controls:
  1. Zoning Ordinance 62, Article III, Section 3.4, requires a 75 foot shoreline setback for a principal structure. The applicant is requesting 26 feet.
  2. Zoning Ordinance 62, Article III, Section 3.7, requires a 15 foot right-of-way setback. The applicant is requesting two 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 depth limits a structure to meet both shoreline and road setbacks.
  2. A performance standard permit would allow for a 600 square foot replacement cabin.
- C. Essential Character of the Locality:
  1. The neighborhood consists of small, platted lots with cabins at reduced setbacks.
  2. The applicant is not proposing a new use to the area.
- D. Other Factors:
  1. The parcel is a platted lot of record. The applicant has no alternatives for a replacement dwelling larger than what exists due to lot size.

*Mark Lindhorst* noted one item of correspondence from John and Judy Lambert in support of the variance request. This item was provided to the Board of Adjustment prior to the hearing.

### **STAFF RECOMMENDATION**

Conditions that may mitigate the variance for a 1,188 square foot dwelling located 26 feet from the shoreline and two feet from the right-of-way include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The shore protection zone shall be preserved in a natural state and screening shall be retained.
3. St. Louis County On-site Wastewater SSTS standards shall be followed.
4. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

*Amy Conniff*, 2790 Hawk Ridge Road NW, Prior Lake, the applicant, stated the cabin was built by her late father over 60 years ago. They spent every summer on this property. The new cabin would allow her entire family to be up there. The cabin does not have a bathroom. The new cabin will have a bathroom. They cannot have a basement because of the high water line. The new cabin will have a mechanical room for the electric and water heater. The only option is to build a wider structure. The existing cabin is old, dated and in rough shape. The kitchen is not big enough for full-sized appliances.

*Jill Conniff* and *Kevin Conniff* were present virtually, both declined to speak.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if lot coverage is an issue. *Mark Lindhorst* stated staff determined this will not be an issue. The lot is wider than it is deep. The new development will be within the 15 percent allowed.
- B. Board member *Pollock* asked how many bedrooms exist on the property now. *Amy Conniff* stated there are two bedrooms, although only one has a closet.
- C. Board member *Werschay* asked if they intend to excavate into the slope. *Amy Conniff* stated she met with the builder and their intention is to raise the structure up to make it level to where the well is located.
- D. Board member *Werschay* asked if the applicant will bring in fill to level out the ground. *Amy Conniff* stated the intent is to use pillars with a foundation around the crawl space.

### **DECISION:**

**Motion by Coombe/Pollock** to approve a variance for a 1,188 square foot dwelling located 26 feet from the shoreline and two feet from the right-of-way, based on the following facts and findings:

- A. Official Controls:
  1. This is a legal lot of record. The cabin has been at this location for over 60 years.
  2. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. Lot depth limits a structure to meet both shoreline and road setbacks.
2. This is a long, shallow lot of record.
3. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The neighborhood consists of small, platted lots with cabins at reduced setbacks.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The parcel is a platted lot of record. The applicant has no alternatives for a replacement dwelling larger than what exists due to lot size.
2. The applicant should have reasonable use of the property. The health and safety of the applicant and their family should be considered, especially with adding a bathroom.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The shore protection zone shall be preserved in a natural state and screening shall be retained.
3. St. Louis County On-site Wastewater SSTS standards shall be followed.
4. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

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

**Opposed:** None - 0

**Motion carried 7-0**

**Case 6324 – David Nolander**

The fifth hearing item was for David Nolander, subject property located in S32, T57N, R12W (Bassett). The applicant is requesting relief from St. Louis County Ordinance 62, Article III, Section 3.4, to allow a replacement dwelling at a reduced shoreline setback where 100 feet is required. *Jenny Bourbonais*, St. Louis County Land Use Manager, reviewed the staff report as follows:

- A. The applicant is requesting approval to replace an existing dwelling with a new dwelling that will be located 80 feet from the shoreline where 100 feet is required.
- B. The existing dwelling is located approximately 25 feet from the shoreline. The existing structure is 572 square feet in size.
- C. The proposed new structure will be 1,604 square feet in size.
- D. All other setbacks and standards will be met.
- E. Development on the property consists of the existing dwelling, a sauna, a pole building/garage, and a septic system.
- F. There is also an overhead powerline that runs through the property between the proposed new structure and the garage.

- G. The overhead powerline will be located 35 feet from the proposed structure. The power company requires a 20 foot setback.
- H. The property is well vegetated with some screening from the shoreline. The proposed structure may be somewhat less screened than the existing structure.

*Jenny Bourbonais* reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Zoning Ordinance 62 states that the required shoreline setback on a Recreational Development lake is 100 feet; the applicant is requesting approval for a replacement dwelling located 80 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 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 has an overhead power line running across the property that is located approximately 160 feet from the shoreline. The power company recommends a setback of 20 feet from the overhead line.
  - a. With a 20 foot recommended setback from the overhead line, there is a building envelope between the shoreline setback and the overhead line setback that is approximately 40 feet in depth.
- 2. The doors on the existing garage face the lake and would also face the proposed replacement dwelling. The proposed distance between the garage and the proposed dwelling is approximately 50 feet.
  - a. The proposed structure could be moved back approximately 15 feet and still meet the recommended distance from the overhead line. This would leave approximately 35 feet between the proposed dwelling and the garage.
- 3. There is a bump out on the structure towards the shoreline. This bump out measures 12 feet towards the shoreline by 26 feet in width.
  - a. A redesign of the dwelling to eliminate the bump out could increase the setback of the structure while maintaining use of the garage and the recommended setback from the overhead line.
  - b. Solely eliminating the bump out would allow the structure to meet a setback of approximately 92 feet where 100 is required.
  - c. A combination of removing the bump out and moving the structure back an additional 8 feet may allow the required setback to be met.
- 4. The existing dwelling is located approximately 25 feet from the shoreline of Bassett Lake.
  - a. Another alternative would be to add 200 square feet to the existing structure.

- i. Due to the state of the structure, an addition may require significant alterations to the structure that may not be allowed at the existing setback.

C. Essential Character of the Locality:

1. There are several residential properties on the northern and western shores of Bassett Lake. This property is located a little over one-quarter mile to the southwest of the public landing.
2. The majority of the parcels (including the subject parcel) in this area appear to be seasonal residential properties.
3. There are several principal structures in the area that appear to meet the required shoreline setback and several that do not appear to meet the required shoreline setback.
  - a. The dwelling on the adjacent parcel to the southwest appears to be located approximately 90 feet from the shoreline.
  - b. The dwelling on the adjacent parcel to the northeast appears to be located approximately 80 feet from the shoreline.
4. One variance was approved within the same plat but on the opposite side of the lake for a new basement foundation and addition to nonconforming principal structure located 50 feet from the shoreline.

D. Other Factor:

1. The southwest property line is easily identified as it was somewhat recently surveyed and the pins are easily located.

*Jenny Bourbonais* noted one item of correspondence from Jerry Stauss in favor of the variance. This item was provided to the Board of Adjustment prior to the hearing.

**STAFF RECOMMENDATION**

Conditions that may mitigate the variance for a replacement dwelling to be located at a reduced shoreline setback of 80 feet as proposed where 100 feet is required include, but are not limited to:

1. The shoreline setback of the structure shall be maximized to the greatest extent possible and shall be no less than 80 feet.
2. The existing vegetative screening within the shore impact zone shall be maintained.
3. The structure shall be unobtrusive earth-toned colors, including siding, trim and roof.
4. The stormwater runoff from the structure shall not discharge directly into the lake or onto adjacent lots.
5. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
6. St. Louis County On-site Wastewater SSTS standards shall be followed.

*David Nolander*, 3858 Nelson Road, Duluth, the applicant, stated the new structure will be moved about three times further from the lake. These are one acre lots that are 400 feet deep and 100 feet wide that were platted in 1926. He spoke with the Cooperative Light and Power operations manager and the concern was the 7,200 volt line that runs through the property. The location was done to shorten the drops to each cabin. While the power company cannot keep the structure closer than 20 feet to the powerline, they strongly discourage any structure underneath the line. They



bring trucks in to maintain the area under that line. He stores the pontoon and fishing boat in the pole barn. To change the proposed structure would require some reconfiguration to access the pole building. They intend to make the building earth-toned colors and they intend to leave all the trees along the shoreline and property lines.

Regarding the bump out, they intend to remove the existing tongue-in-groove cedar and create a new room with that cedar in the new structure. This will be a tribute to the cabin that has been there since 1951.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Svatos* asked what the power company recommends for a setback. *David Nolander* stated the power company recommended no closer than 20 feet on either side of the powerline. This is because the power company does frequently maintain the line and needs the clearance.
- B. Board member *Pollock* asked if there are poles that could fall towards the proposed structure. *David Nolander* stated there is. Board member *Pollock* asked how tall the power poles are. *David Nolander* stated about 40 feet or higher. Board member *Pollock* stated his concern is that the power pole will fall and hit the house. A 35 foot setback is better than a 20 foot setback.
- C. Board member *Skraba* asked if the applicant is located at the end of the road. *David Nolander* stated they are not at the end of the road, but there are only a few properties more.

#### **DECISION:**

**Motion by McKenzie/Skraba** to approve a variance for a replacement dwelling to be located at a reduced shoreline setback of 80 feet as proposed where 100 feet is required, based on the following facts and findings:

- A. Official Controls:
  1. Zoning Ordinance 62 states that the required shoreline setback on a Recreational Development lake is 100 feet; the applicant is requesting approval for a replacement dwelling located 80 feet from the shoreline.
  2. The applicant states a reasonable solution to the circumstance of moving a structure further from the lakeshore but is limited doing so by a powerline and access to a garage.
  3. Official controls can also allow for reasonable accommodation and circumstance.
  4. The variance request is in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
  1. The placement of a new structure is constrained by the recommended setback of a powerline and where a garage is located for entry/exit especially for a trailer. Opening a garage door would be difficult without a variance allowing a reduced shoreline setback.
  2. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The staff report indicates there are a number of seasonal cabins nearby, some of which appear to meet shoreline setbacks and some which do not.
2. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The applicant's proposal is to replace an aging cabin located 25 feet from the shoreline with a new structure 80 feet from the shoreline.
2. The applicant's design could be altered to increase the shoreline setback.
3. A letter of support was received from the neighbor.

The following conditions shall apply:

1. The shoreline setback of the structure shall be maximized to the greatest extent possible and shall be no less than 80 feet.
2. The existing vegetative screening within the shore impact zone shall be maintained.
3. The structure shall be unobtrusive earth-toned colors, including siding, trim and roof.
4. The stormwater runoff from the structure shall not discharge directly into the lake or onto adjacent lots.
5. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
6. St. Louis County On-site Wastewater SSTS standards shall be followed.

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

**Opposed:** None - 0

**Motion carried 7-0**

**Case 6325 – Hagenah Construction**

The sixth hearing item was for Hagenah Construction, subject property located in S15, T51N, R17W (Industrial). The applicant is requesting relief from St. Louis County Ordinance 62, Article VI, Section 6.10 C., to allow an expansion of an existing water oriented accessory structure that will increase the size beyond the maximum allowed size of 250 square feet. *Jenny Bourbonais*, St. Louis County Land Use Manager, reviewed the staff report as follows:

- A. The applicant is requesting approval to add a 240 square foot addition to an existing 208 square foot sauna water oriented accessory structure.
- B. The addition would bring the size of the water oriented accessory structure to 448 square feet where 250 square feet is allowed for a water oriented accessory structure.
- C. The proposed addition will extend over an existing concrete slab located on the lakeside of the structure.
- D. The required setbacks, including the shoreline setback, will be met by the proposal.
- E. Development on the property consists of a principal dwelling, a small storage structure and the sauna structure that is proposed to be expanded. The property shares a holding tank with an adjacent property that is under the same ownership.

- F. The majority of the property appears to be well vegetated. There is some screening of the structures from the shoreline. There is some grass/lawn between the structures and the shoreline, but a narrow strip of natural vegetation at the shoreline effectively screens the property from the lake.
- G. The structures on the property are located at the toe of a steep slope. The slope behind the structures is approximately 40 percent. The area between the structures and the shoreline is relatively flat.
- H. The property is part of a larger group of parcels that are under common ownership.

*Jenny Bourbonais* reviewed staff facts and findings as follows:

A. Official Controls:

- 1. Zoning Ordinance 62 states that the maximum size for a non-boathouse water oriented accessory structure is 250 square feet; the applicant is requesting approval for an addition that will increase a conforming water oriented accessory structure to 448 square feet.
- 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 in Minnesota Statue 394.22 Subd. 10.

B. Practical Difficulty:

- 1. The steep slope located behind the structures may make it difficult for a structure to meet all setbacks, but it does not prevent the applicant from expanding the structure without exceeding the maximum size allowed.
- 2. The size of the proposed addition alone exceeds the maximum size allowed for a water oriented accessory structure.
- 3. A smaller addition could be added to the structure so the total size does not exceed 250 square feet.
  - a. The size that could be added without exceeding 250 square feet is 42 square feet.
  - b. A portion of the existing slab could remain uncovered by the proposed screen porch addition.
    - i. The current overhang of the structure on the lake side is five feet. Increasing this overhang to 7.5 feet and enclosing it as a screen porch would be within the allowed size for a water oriented accessory structure.
- 4. Since there are several lots in this plat that are under common ownership, there may be an opportunity for a similar type of structure in another location that meets all standards.
- 5. Another alternative is to replace the structure with a combination sauna/screen porch that does not exceed 250 square feet.

- a. A new design of a structure could more efficiently combine the two types of uses into one structure and still meet all standards.

C. Essential Character of the Locality:

1. This is a relatively small lake with somewhat limited development. This plat is one of the more densely developed areas on the lake.
  - a. The landowner owns all of the lots within this plat except for one.
  - b. The parcel located adjacent to the south is owned by a separate landowner who is an aunt to the owner of the subject parcel.

D. Other Factor:

1. Based on review of the aerial photos of the property, it appears that the slab/patio on the front of the sauna was expanded or added sometime between 2016 and 2019.
  - a. The use of the patio in the front of the dwelling is a relatively new feature of the structure.

*Jenny Bourbonais* noted no items of correspondence.

**STAFF RECOMMENDATION**

Conditions that may mitigate the variance for expansion of an existing water oriented accessory structure that will increase the size beyond the maximum allowed size of 250 square feet to 448 square feet as proposed include, but are not limited to:

1. The structure shall be unobtrusive earth-toned colors, including siding, trim and roof.
2. The existing vegetative screening within the shore impact zone shall be maintained.
3. The stormwater runoff from the structure shall not discharge directly into the lake or onto adjacent lots.
4. If the structure is replaced, it shall be done in a manner that meets all water oriented accessory structure standards.

*Allen Hagenah*, P.O. Box 234, Carlton, the applicant, was present.

*Tim Hagenah*, P.O. Box 234, Carlton, the applicant, was present.

*Brian Lewis*, 5148 Park Avenue, Minneapolis, stated this property has belonged to multiple generations of his family from his grandfather to his father to him. He owns about 222 acres on this private lake. There is no public access on the lot. The sauna and the patio have been on the property for many years as built by his father. This is just a sauna with no water. They have a family with eight children. There is no screened-in area on the property to keep them away from the heat, rain and bugs. There are small buildings where they spend time on the lake. They want to screen in the patio area. They do not want to make any additional changes.

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

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked if the patio required a permit. *Jenny Bourbonais* stated it did not. Board member *Pollock* asked what is allowed without a permit. *Jenny Bourbonais* stated that a patio and enclosing a five foot overhang would be allowed.
- B. Board member *Skraba* asked about the size difference between a boathouse and a non-boathouse water oriented accessory structure. *Jenny Bourbonais* stated there are different standards for both structures.
- C. Board member *Skraba* asked how the screen porch will be attached to the existing sauna roofline. *Tim Hagenah* stated they spoke with staff about just enclosing a small area to meet the 250 square foot size allowed. With the existing roofline and needing a doorway, people would be ducking to get into there. Everything would be smaller and more confined. The proposed addition would have more height and not be so confined.
- D. Board member *McKenzie* stated he cannot approve this as presented. It would be too big for what and where it is. Board member *Pollock* stated there is no justification.
- E. Board member *Skraba* stated with variance approval there is some control over stormwater runoff whereas there were no controls before.

**DECISION:**

**Motion by Coombe/Skraba** to approve a variance for expansion of an existing water oriented accessory structure that will increase the size beyond the maximum allowed size of 250 square feet to 448 square feet, based on the following facts and findings:

- A. Official Controls:
  - 1. Zoning Ordinance 62 states that the maximum size for a non-boathouse water oriented accessory structure is 250 square feet; the applicant is requesting approval for an addition that will increase a conforming water oriented accessory structure to 448 square feet.
  - 2. The structure will be larger than allowed by Ordinance. However, the applicant's safety, health and enjoyment of the lake would be helped by a screenhouse.
  - 3. The variance request is and is not in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
  - 1. The structure has been at its existing location and the addition will use the existing concrete slab. The height will be no more than 10 to 11 feet high.
  - 2. Practical difficulty has been demonstrated in complying with the official controls.
- C. Essential Character of the Locality:
  - 1. This is a relatively small lake with somewhat limited development. This plat is one of the more densely developed areas on the lake.
    - a. The landowner owns all of the lots within this plat except for one.
    - b. The parcel located adjacent to the south is owned by a separate landowner who is an aunt to the owner of the subject parcel.
  - 2. The variance request will not alter the essential character of the locality.

The following conditions shall apply:

- 1. The structure shall be unobtrusive earth-toned colors, including siding, trim and roof.
- 2. The existing vegetative screening within the shore impact zone shall be maintained.

3. The stormwater runoff from the structure shall not discharge directly into the lake or onto adjacent lots.
4. If the structure is replaced, it shall be done in a manner that meets all water oriented accessory structure standards.

**In Favor:** Coombe, Filipovich, Skraba, Svatos, Werschay - 5

**Opposed:** McKenzie, Pollock - 2

**Motion carried 5-2**

**Motion to adjourn by Skraba. The meeting was adjourned at 12:54 p.m.**