

**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, FEBRUARY 10, 2022.**

10:17 AM – 12:52 PM

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

Board of Adjustment members absent: Ray Svatos

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

**NEW BUSINESS:**

- A. Sarah Caywood, S8, T53N, R17W (Northland)
- B. Robert Foucault, S24, T51N, R16W (Grand Lake)
- C. Lisa Diehl Foreman, S17, T60N, R21W (French)
- D. Joseph Skofich, S4, T62N, R16W (Greenwood)
- E. Mary Batinich, S28, T62N, R15W (Breitung)

**OTHER BUSINESS:**

**Motion by McKenzie/Skraba** to approve the minutes of the January 19, 2022, meeting.

**In Favor:** Filipovich, McKenzie, Pollock, Skraba, Werschay – 5

**Opposed:** None – 0

**Abstained:** Coombe - 1

**Motion carried 5-0-1**

*Jenny Bourbonais*, Acting Secretary, stated the Board of Adjustment bylaws had been handed out at the December 2021 Board of Adjustment meeting. Board of Adjustment members had asked to hold these until February 2022. The Board of Adjustment requested to hold off review and approval until the March 2022 Board of Adjustment meeting to allow more time to review the bylaws.

*Jenny Bourbonais* also announced that Dan Manick has been appointed by the County Board as the Alternate for the Board of Adjustment in the event that the Board needs a quorum.

**NEW BUSINESS:**

**Case 6294 – Sarah Caywood**

The first hearing item was for Sarah Caywood, subject property located in S8, T53N, R17W (Northland). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article

II, Section 2.4, to allow principal structure width facing the water to exceed 55 percent of lot width and from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal dwelling to be located at a reduced property line setback. *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to continue to use an existing structure as a principal dwelling when the structure was originally permitted as an accessory structure.
- B. The structure does not meet principal structure property line setback standards or principal structure width facing the lake standards.
- C. When the applicant purchased the property in 2016, the structure may have been utilized as a dwelling.
- D. The applicant has stated that the only work done to the structure since purchasing the property is limited interior remodeling.
- E. A previous landowner received a land use permit in 2007 for an accessory structure to contain no living space per the applicant and permit certificate language.
- F. The owner appears to have owned this property until 2016.
- G. Per the St. Louis County Assessor's Department data, the structure permitted in 2007 was built somewhere between 2007 and 2010.
- H. The structure is located 10 feet from the side property lines and is 30 feet in width. This structure meets the accessory structure standards.
- I. At some point, there was a change in use of the structure from an accessory structure to a dwelling without the benefit of a land use permit.
- J. As a principal structure, the existing structure is nonconforming due to do the 20 foot side-yard property line setback required and the 55 percent structure width facing the water standard.
- K. The previous landowner also applied for and received a variance in 2007 for a dwelling with 10 foot and 12 foot side-yard property line setbacks and a structure width facing the water of 56 percent. This structure was never built.
- L. The existing structure does not meet the criteria of the variance approved in 2007. The existing structure is located 10 feet from both side-yard property lines and has a 60 percent structure width facing the water.

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

- A. Official Controls:
  - 1. Zoning Ordinance 62, Article II, Section 2.4, states that structure width facing the water shall not exceed 55 percent of the lot width for principal structures located outside the shoreline setback.
    - a. The subject parcel is 50 feet wide, and the existing structure is 30 feet wide. This equals a 60 percent structure width facing the water.
  - 2. Zoning Ordinance 62, Article III, Section 3.2, states minimum setback standards for each district.
    - a. The subject parcel is zoned Shoreline Multiple Use (SMU)-7. District 7 requires principal structures to be 20 feet from property lines. The existing structure is 10 feet from both side-yard property lines.
    - b. When permitted in 2007, the structure conformed to the required 10 foot property line setback as an accessory structure.

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 Statue 394.22 Subd. 10.

B. Practical Difficulty:

1. The property contains limited buildable area due to lot width and size.
2. The applicant purchased the property in 2016 when the structure may have been utilized as a dwelling by the previous owner.
3. An alternative to an after-the-fact variance is to remove living space in the structure and utilize the structure as a garage and build a separate dwelling that conforms to ordinance standards or meets criteria and conditions of the 2007 variance.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The area consists of seasonal and year-round residential uses.
2. The subject parcel was granted a variance in 2007 to construct a dwelling at reduced property line setbacks and to exceed allowed structure width.
  - a. The existing structure does not meet the criteria approved in the previous variance.
3. The Islandview Addition to Lake Nichols plat was platted in 1927 with many lots having only 50 feet in lot width, including the subject parcel.

D. Other Factors:

1. The approved variance from 2007 should be revoked if the current request is approved.
  - a. The existing structure is two feet wider than the dimensions approved in the 2007 variance which results in a greater reduction to one of the side-yard property line setbacks and increased structure width facing the water.
2. A permitted holding tank currently services the structure.
  - a. The holding tank was first permitted in 2005.
  - b. St. Louis County On-Site Wastewater passed record review of the existing septic.

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

1. The garage was constructed sometime between 2007 and 2010. The previous owner applied for, received a permit for, and built the structure. While a specific date is not known, the structure may have been utilized as a dwelling prior to 2016 when the property was sold to the current owner (applicant) based on St. Louis County Assessor's data and information from the applicant.

2. The applicant has stated the only work done on the structure since purchasing the property in 2016 has been limited interior remodeling.
3. The use of the structure as a dwelling was discovered when the current owner (applicant) submitted application for short term rental.

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 in addition to upholding the previous variance decision.

*George Knutson* noted five items of correspondence including a resolution from the Town of Northland not in support, Northland Town Supervisor Char Johnson not in support; Northland Town Supervisor Shane Anderson not in support; Roberta and Dean Pirkola in support of a dwelling variance; and Joe Berini not in support of the proposal. This correspondence was provided to the Board of Adjustment prior to the hearing.

#### **STAFF RECOMMENDATION**

Conditions that may mitigate the variance for after-the-fact relief for reduced principal structure property line setbacks and to exceed maximum principal structure width facing the water as proposed include, but are not limited to:

1. The previous variance approved in 2007 shall be revoked.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. A shoreline vegetation plan shall be submitted and approved by the county prior to issuance of the land use permit.
4. All other local, county, state, and federal regulations shall be met.

*Sarah Caywood*, 7058 Saginaw Road, Saginaw, the applicant, stated that the Northland Town Board and neighbors were against a vacation rental home. This had been her plan between putting the property back on the market because the property did not sell last year. They put it back on the market and it is pending sale pending the outcome of the variance hearing. She tried to explain to the township that the variance was not for a vacation rental, but for the structure to remain as a dwelling. This will not be used as a short term rental by them. They would prefer to sell the property.

No audience members spoke. There was one virtual attendee in the audience, *Janet Hart*, who was listening and did not wish to speak.

The *Board of Adjustment* discussed the following:

- A. Board member *Skraba* asked what the difference is between when the Assessor's photos were taken in 2010 and 2017. *George Knutson* stated that nothing has changed except for the land ownership.
- B. Board member *Coombe* asked why the variance approved in 2007 should be removed. *Jenny Bourbonais*, Acting Secretary, stated that the approval standards of the variance are not being met. If this variance was allowed to remain, the applicants would be allowed to

have both this existing structure and another dwelling where one dwelling would be allowed on the property. Revoking the variance is what should be done in a situation like this.

- C. Board member *Coombe* asked why the 2007 variance could not just be amended. *Jenny Bourbonais* stated it is a cleaner process to revoke a variance over amending it. This is a new variance request based on this situation.
- D. Board member *Skraba* stated the existing structure is built away from the lake. They are not looking to add another structure in front of the existing structure. The solution is to get rid of the other variance.
- E. Board member *Werschay* asked if leaving the 2007 variance and approving this current variance would be allowing two principal structures on this lot. *Jenny Bourbonais* stated yes.
- F. Board member *Werschay* asked if the applicant could build a cabin and just remove the living quarters from the existing dwelling. *Jenny Bourbonais* stated that the Board could allow this. Board member *Skraba* stated the applicant would not need to come to the Board if they wanted to convert the existing dwelling to a garage and build a new dwelling. *Jenny Bourbonais* stated this was suggested to the applicant and this was not the direction the applicant wanted to go. They want a variance for the structure to remain as is.
- G. Board member *Pollock* asked if the accessory structure could be allowed to remain as permitted. *Jenny Bourbonais* stated the accessory structure was built as permitted. At some point in time, it was converted into a dwelling. The dwelling neither meets ordinance standards nor the variance approval from 2007. This structure cannot be allowed to remain as is without a variance.
- H. Board member *Pollock* stated that in order for this property to be a short term rental, the variance has to be approved. The applicant had applied for a short term rental and found out that the dwelling was not in compliance and now they are trying to get this straightened out.
- I. Board member *Skraba* stated that they are dealing with a zoning issue, not a rental issue.
- J. Board member *Coombe* expressed concerns with revoking the original 2007 variance. *Sarah Caywood* stated the intention of the property buyers would be to use this property for a cabin.

## DECISION

**Motion by McKenzie/Skraba** to approve a variance for after-the-fact relief for a principal structure width facing the water to exceed 55 percent at 60 percent and for reduced principal structure property line setbacks of ten feet, based on the following facts and findings:

- A. Official Controls:
  - 1. Zoning Ordinance 62, Article II, Section 2.4, states that structure width facing the water shall not exceed 55 percent of the lot width for principal structures located outside the shoreline setback.
    - a. The subject parcel is 50 feet wide, and the existing structure is 30 feet wide. This equals a 60 percent structure width facing the water.
  - 2. Zoning Ordinance 62, Article III, Section 3.2, states minimum setback standards for each district.

- a. The subject parcel is zoned Shoreline Multiple Use (SMU)-7. District 7 requires principal structures to be 20 feet from property lines. The existing structure is 10 feet from both side-yard property lines.
- b. When permitted in 2007, the structure conformed to the required 10 foot property line setback as an accessory structure.
3. The structure is in violation of lot width standards and setbacks which directly counter compliance with official controls. The variance request is and is not in harmony with the general purpose and intent of official controls; however, to allow the applicant to use this as a principal structure would provide a reasonable use of the structure.

B. Practical Difficulty:

1. The property contains limited buildable area due to lot width and size.
2. The applicant purchased the property in 2016 when the structure may have been utilized as a dwelling by the previous owner.
3. The applicant claims the property was purchased not knowing that the structure was classified as an accessory structure, after the work to convert the accessory structure to a dwelling had already taken place. Additionally, they had invested in the building before discovering its true status.
4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. The area consists of seasonal and year-round residential uses.
2. The applicant's parcel is part of a 95-year-old plat with narrow lots and many structures appear to be nonconforming to shoreline setbacks.
3. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. The approved variance from 2007 should be revoked if the current request is approved.
  - a. The existing structure is two feet wider than the dimensions approved in the 2007 variance which results in a greater reduction to one of the side-yard property line setbacks and increased structure width facing the water.
2. A permitted holding tank currently services the structure.
  - a. The holding tank was first permitted in 2005.
  - b. St. Louis County On-Site Wastewater passed record review of the existing septic.
3. Many nearby lots have what appear to be nonconforming structures. This violation seems minimal when the structure is several hundred feet from the shoreline.

The following conditions shall apply:

1. The previous variance approved in 2007 shall be revoked.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. A shoreline vegetation plan shall be submitted and approved by the county prior to issuance of the land use permit.
4. All other local, county, state, and federal regulations shall be met.

**In Favor:** Coombe, Filipovich, McKenzie, Pollock, Skraba, Werschay - 6

**Opposed:** None - 0

**Motion carried 6-0**

**Case 6295 – Robert Foucault**

The second hearing item was for Robert Foucault, subject property located in S24, T51N, R16W (Grand Lake). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow an accessory structure at a reduced property line setback and from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, to allow an addition to a principal structure located within the shore impact zone that does not meet a property line setback. *George Knutson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to replace an existing 22 foot by 14 foot accessory structure (garage) with a 26 foot by 24 foot accessory structure (garage) to be located six feet from the property line where 10 feet is required.
- B. The applicant is also proposing a 20 foot by 20 foot addition to the existing dwelling, which is located within the shore impact zone and encroaches onto the adjacent property to the east.
- C. The applicant is proposing to remove the small portion of the existing structure that is encroaching and angle the addition so that it will be located entirely on the subject parcel.
- D. The applicant has written authorization from the adjacent property owner to complete the proposed work on the adjacent property.
- E. The septic tank will be relocated in order to allow the dwelling addition.

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

- A. Official Controls:
  1. Zoning Ordinance 62, Article III, Section 3.2, states minimum setback requirements for each zone district.
    - a. The subject parcel is zoned Residential (RES)-9. District 9 requires 10 foot property line setbacks for accessory structures and 15 foot property line setbacks for principal structures.
    - b. The applicant is proposing a 6 foot property line setback for the proposed accessory structure and a zero foot property line setback for the proposed dwelling addition.
  2. Zoning Ordinance 62, Article IV, Section 4.3, states that if a principal structure is located within the shore impact zone and does not meet a property line setback, any proposed addition requires a variance.
    - a. The existing principal structure is located approximately 40 feet from Caribou Lake and currently encroaches onto the adjacent parcel to the east.
    - b. The applicant is proposing to correct the encroachment by removing a portion of the structure and angle the proposed addition so it is located entirely on the subject parcel. The proposed addition size is 400 square feet.
  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 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. This lot, as well as other lots around Caribou Lake, were platted in 1922 with only 50 feet in lot width which limits conforming area to a narrow section of the parcel.
  - a. Although the width is restrictive, the parcel has great depth. If the subject parcel were to be redeveloped, there is area for conforming structures. For this lot, a conforming principal structure could only be 20 feet wide due to lot size and setback requirements.
2. In its current location, any addition to the principal structure would require variance.
3. There are alternatives for the proposed principal structure addition that may not require variance.
  - a. Alternative: Move the existing principal structure to a location that maximizes setbacks and apply for an addition that meets all applicable ordinance standards.
  - b. Alternative: Propose a replacement principal structure that meets all applicable ordinance standards.
4. There is an alternative for the proposed accessory structure (garage) that may not require variance:
  - a. Alternative: Propose the garage in a conforming area. For example, this may be accomplished by reducing the size and/or changing the orientation.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. A majority of the parcels on Caribou Lake are limited in width and have historic residential development which includes some existing structures within property line setbacks.
2. The subject parcel received a variance in 1984 for a dwelling addition and an attached deck.
  - a. Grand Lake Township administered their own zoning at this time.

D. Other Factors:

1. In order to meet the minimum 10 foot septic tank setback, the applicant has worked with a licensed septic designer on a new septic design.
  - a. The new septic permit will need to be obtained prior to issuance of any land use permit.
2. The existing principal structure was built in 1960 and the existing accessory structure (garage) was built in 1945.
3. A survey was completed on the subject parcel which shows the dwelling encroaching on the property line.



*George Knutson* noted one item of correspondence from Robert Foucault responding to the facts and findings. This correspondence was provided to the Board of Adjustment prior to the hearing.

### **STAFF RECOMMENDATION**

Conditions that may mitigate the variance for an addition to a principal structure located within the shore impact zone while not meeting a property line setback as proposed include, but are not limited to:

1. Stormwater from the structure shall not discharge directly onto adjacent properties or into the lake.
2. St. Louis County On-Site Wastewater standards shall be followed.
3. The addition shall be located entirely on the subject parcel.
4. The addition shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.
5. All other local, county, state, and federal regulations shall be met.

Conditions that may mitigate the variance for an accessory structure at a reduced property line setback of six feet as proposed include, but are not limited to:

1. Stormwater from the structure shall not discharge directly onto adjacent properties.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. The addition shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.
4. All other local, county, state, and federal regulations shall be met.

*Robert Foucault*, 4128 22<sup>nd</sup> Avenue South, Minneapolis, the applicant, stated he submitted a letter of support from the neighbor (*Cindy Lundgren*) to the west that shares the property line where the six foot setback would be. That neighbor also has two structures that encroach on that property line. There are a lot of encroachment on property lines in this area because of the surveying done in the 1920s versus the surveying done now. Staff's alternative location for the garage would not work. Septic expansion area is between the garage and the road and that would limit how a garage could be oriented and the garage doors would face south. The garage doors currently face east toward the driveway. They want to minimize tree and vegetative removal as they are trying to reforest this property. His brother owns the property to the east. Keeping the garage at the same orientation would work best.

No audience members spoke. There were no virtual attendees at this time.

The *Board of Adjustment* discussed the following:

- A. Board member *Werschay* asked if there is a septic on the property right now. *George Knutson* stated there is a septic on the property. Where the septic is located on the property, it would not work with the proposed addition. The applicant is working with a licensed septic designer on the septic relocation.
- B. Board member *Pollock* asked where the garage in staff's alternative location would go. *George Knutson* stated the existing garage meets the 10 foot property line setback. The alternative would be to reduce the size or change the orientation of the garage to meet the property line setback. There may be some room to put an accessory structure on the property. Board member *Pollock* added that a reorientation could mean a 90 degree shift on where the garage doors would be located. *George Knutson* stated that is possible, but with a change to orientation and reducing the size, the garage could potentially meet the 10

foot property line setback. The applicant would only need four additional feet to meet that setback.

- C. Board member *Skraba* stated that shifting the garage may require the removal of trees and relocating the power pole in order to fit a garage in that location.
- D. Board member *Coombe* asked if the neighboring property closest to the six foot property line setback has any problem with the proposed location. *George Knutson* stated that no correspondence was received from that neighbor.
- E. Board member *Skraba* asked if the municipal sewer would ever expand into this part of Caribou Lake. Commissioner *Nelson*, speaking as the county commissioner for Grand Lake Township and as the Chair of the Septic Subcommittee, commented that there is no plan to extend the wastewater treatment lines at this time. *Robert Foucault* added that the municipal sewer is on the north side of Caribou Lake only.
- F. Board member *Coombe* stated these were small, narrow lots that were platted a hundred years ago. When cabins were built 60 years ago and garages were built 77 to 78 years ago, it is hard to add anything to the property without massive reconstruction and cost. What the applicant is asking for is not unreasonable. The addition to the house is minute.
- G. Board member *Pollock* stated the applicant is removing a part of the dwelling in order to fix an issue and has an agreement with the property owner to the east. What the applicant is doing with the garage makes sense and he has that neighbor's support, too.

## **DECISION**

**Motion by Skraba/Coombe** to approve a variance for an addition to a principal structure located within the shore impact zone at a zero foot property line setback and to approve a variance for an accessory structure at a reduced property line setback of six feet, based on the following facts and findings:

- A. Official Controls:
  - 1. Zoning Ordinance 62, Article III, Section 3.2, states minimum setback requirements for each zone district.
    - a. The subject parcel is zoned Residential (RES)-9. District 9 requires 10 foot property line setbacks for accessory structures and 15 foot property line setbacks for principal structures.
    - b. The applicant is proposing a 6 foot property line setback for the proposed accessory structure and a zero foot property line setback for the proposed dwelling addition.
  - 2. Zoning Ordinance 62, Article IV, Section 4.3, states that if a principal structure is located within the shore impact zone and does not meet a property line setback, any proposed addition requires a variance.
    - a. The existing principal structure is located approximately 40 feet from Caribou Lake and currently encroaches onto the adjacent parcel to the east.
    - b. The applicant is proposing to correct the encroachment by removing a portion of the structure and angle the proposed addition so it is located entirely on the subject parcel. The proposed addition size is 400 square feet.
  - 3. There is nowhere else to build due to the location of the septic tank and septic field, topography and vegetation.
  - 4. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

1. This lot, as well as other lots around Caribou Lake, were platted in 1922 with only 50 feet in lot width which limits conforming area to a narrow section of the parcel.
  - a. Although the width is restrictive, the parcel has great depth. If the subject parcel were to be redeveloped, there is area for conforming structures. For this lot, a conforming principal structure could only be 20 feet wide due to lot size and setback requirements.
2. In its current location, any addition to the principal structure would require variance.
3. This is not an unreasonable request.
4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. A majority of the parcels on Caribou Lake are limited in width and have historic residential development which includes some existing structures within property line setbacks.
2. The subject parcel received a variance in 1984 for a dwelling addition and an attached deck.
  - a. Grand Lake Township administered their own zoning at this time.
3. The variance will make the structures more conforming and will clean up the nonconformities.
4. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. In order to meet the minimum 10 foot septic tank setback, the applicant has worked with a licensed septic designer on a new septic design.
  - a. The new septic permit will need to be obtained prior to issuance of any land use permit.
2. The existing principal structure was built in 1960 and the existing accessory structure (garage) was built in 1945.
3. A survey was completed on the subject parcel which shows the encroachment.
4. This is an older plat with an older lot. Variance approval will allow reasonable use of the property.

The following conditions shall apply for the addition:

1. Stormwater from the structure shall not discharge directly onto adjacent properties or into the lake.
2. St. Louis County On-Site Wastewater standards shall be followed.
3. The addition shall be located entirely on the subject parcel.
4. The addition shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.
5. All other local, county, state, and federal regulations shall be met.

The following conditions shall apply for the accessory structure:

1. Stormwater from the structure shall not discharge directly onto adjacent properties.
2. St. Louis County On-Site Wastewater SSTS standards shall be followed.
3. The addition shall be unobtrusive (earth-tone) colors, including siding, trim, and roof.
4. All other local, county, state, and federal regulations shall be met.

**In Favor:** Coombe, Filipovich, McKenzie, Pollock, Skraba, Werschay - 6  
**Opposed:** None - 0

**Motion carried 6-0**

**Case 6296 – Lisa Diehl Foreman**

The third hearing item was for Lisa Diehl Foreman, subject property located in S17, T60N, R21W (French). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a replacement dwelling at a reduced property line 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 1,560 square foot cabin with a 2,358 square foot cabin located nine feet from the property line where 15 feet is required.
- B. The building site is located within a 15 to 20 percent slope.
- C. There is adequate septic area on the property that will not prevent the proposed structure from meeting all ordinance requirements. The existing septic system will be abandoned.

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

- A. Official Controls:
  1. Zoning Ordinance 62, Article III, Section 3.2, requires a 15 foot property line setback for a principal structure. The applicant is requesting nine 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 existing and proposed structure will be located within a steep slope. However, there is room for the structure to be moved six feet to meet minimum property line setbacks.
  2. Alternatives that would eliminate the request for variance include the following:
    - a. Shift the building six feet.
    - b. Reduce the size of the structure.
    - c. Reconfigure the structure.
- 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.
  3. There have been no similar variance requests approved in the neighborhood.
- D. Other Factor:
  1. There are several alternatives that would eliminate the need for a variance. As proposed, the applicant has not met the burden of demonstrating a practical difficulty.

*Mark Lindhorst* noted one item of correspondence from Richard Egge in support of the proposal. This correspondence was provided to the Board of Adjustment prior to the hearing. The applicant supplied copies at the hearing of a septic evaluation from Nick Bougalis.

### **STAFF RECOMMENDATION**

Conditions that may mitigate the variance for a dwelling nine feet from the property line include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. St. Louis County On-site Wastewater SSTS standards shall be followed.

*Lisa Diehl Foreman*, 5301 Ayrshire Boulevard, Edina, the applicant, stated she has history with this property. Her parents bought this property in the 1960s when she was young. She is the oldest of three daughters. She is the only one that lives in Minnesota. She and her husband purchased the lake home from their family estate. This is an old structure that was built in the 1940s. They looked at remodeling to maximize their square footage but would gain nothing from the existing structure. They want to be good stewards of this property. In rebuilding this cabin, they are working with a local architect. The architect suggested to work with the lay of land and what they have and enhance a new structure. The architect designed the building presented in the packet. The existing building is not perpendicular or parallel to the property line. Pivoting the new structure and following the grade and the way the land lays and staying within the same footprint they already have. The new structure would be parallel with the neighbor's cabin next door. They are the last cabin on a hill with eight cabins. They share their driveway with a neighbor.

The soil is very good soil that is easy to work with. They are trying to minimize any disturbance to the area around this soil. If the structure is moved out 15 feet, they will face erosion and 20-to-25-foot grade changes. To stay at the nine foot setback, they can stay within the flat building site with minimal amounts of disturbance. To move the structure would cause environmental hardship. If they had to remove trees, it would disturb the grade and the soils that have not been disturbed since the 1940s. They are concerned about opening a can of worms if they disturb the area. They want to be thoughtful about how they do this.

No audience members spoke. There were no virtual attendees at this time.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked about the soils north of the property. *Mark Lindhorst* stated that this is sandy soil instead of ledgerrock. The correspondence from Nick Bougalis stated what the soils are like in this area. The applicants may need to bring in fill, excavate and grade where the garage would be located. There is a flat building area where the current structure is located.
- B. Board member *Coombe* asked if the lot drops 20 to 25 feet based on topography lines. *Mark Lindhorst* stated it drops about 15 feet with a gradual slope to the lake.
- C. Board member *Coombe* stated based on the application, the applicants will use the flat building area for the new structure.
- D. Board member *Skraba* asked about the large Norway pines and if they would be disturbed. *Lisa Diehl Foreman* stated a few trees have been taken down that are on the backside of

the existing cabin. These trees will be milled and used in the new structure. They will retain as many pine trees as they can. They may need to remove two. There is a white pine that is over a hundred years old along the driveway they share with their neighbor. They would like to orient the garage, so they do not need to remove an over 100-year-old pine tree or come into the garage from the neighbor's side of the driveway.

- E. Board member *Werschay* asked if the new structure will have a basement. *Lisa Diehl Foreman* stated the existing cabin does not have a basement. They have a walkway along the front of the cabin. The new structure will have a basement. This property has never had a garage. There are seven properties along the hill that have garages. They had no storage space on this property.
- F. Board member *Werschay* asked if the applicants would be excavating into the hillside for a basement. *Lisa Diehl Foreman* stated that the footprint would be within what the existing cabin is.
- G. Board member *Werschay* asked what the new structure height will be. *Lisa Diehl Foreman* stated the maximum structure height set by the county is 35 feet.
- H. Board member *Filipovich* asked if the applicant's structure would be staying within the three contiguous lots. *Lisa Diehl Foreman* stated they own five lots and this structure will stay within the three contiguous lots. Board member *Filipovich* stated the primary lot has a house on it. *Lisa Diehl Foreman* stated they are limited because there are wetlands to the east where the land drops down to the south. To the west, the land goes down to Sturgeon Lake.
- I. Board member *Filipovich* stated the applicant is using the elevation as a natural elevation and not having the applicant control the drainage. The applicant is using the elevation to fit the house instead of the other way around. *Lisa Diehl Foreman* stated some landscaping has been done in the past. The sandy soil was brought in to help level off the site before and will remain. She added they are the last cabin on the hill. Other neighbors have added garages and outdoor storage structures.
- J. Board member *McKenzie* asked about the pictures of the north side of the existing cabin where there were no trees seen but there was a power pole. *Lisa Diehl Foreman* stated this is where the septic system is located right now. There are two side by side tanks. This is being replaced.
- K. Board member *McKenzie* asked if the applicant would be willing to reconfigure the proposed dwelling if the variance is denied. *Lisa Diehl Foreman* stated the bump-out closest to the property line is a four-season porch with an upper office and a lower room. This would have to be relocated. Based on the layout of this structure, there might be a better place to relocate it or else eliminate the area.
- L. Board member *McKenzie* asked why the applicant wants to use the same building footprint. *Lisa Diehl Foreman* stated that they want to use the same building footprint because of the grade and topography of the slope. This is a flat area before it drops off on three sides. They are using what they have to work with and staying within the footprint with what is already there. They would have to otherwise excavate more. There is a concern about disturbing these soils and topography changes and erosion. Her parents had water issues with this cabin in the front.
- M. Board member *Coombe* stated this is not a shoreline setback issue but a property line setback issue. *Lisa Diehl Foreman* agreed that they have enough area to work with being 130 feet from the lake.

- N. Board member *Skraba* asked if the neighbor is okay with the nine foot setback. *Lisa Diehl Foreman* stated they reached out to the neighbors to explain what they wanted. They will not impact their property at all. There is a playhouse between their properties that has seen a lot of use over the years.
- O. Board member *McKenzie* stated he is not sure there is a practical difficulty that is not self-created because of the configuration of the proposed building.
- P. Board member *Skraba* countered that the original building was built in the 1940s. This structure is what it is. The difficulty of moving it six feet over is they are using more land than they were before. There is no gaining anything moving the structure six feet. He would rather not see trees removed. The applicants are trying to build into the hill. They are trying not to bring in an excavator and remove everything to rebuild. The structure also meets the lake setback.
- Q. Board member *Pollock* stated there is a trade-off because the structure does meet lake setback and the neighbor is not objecting. This is not necessarily a justification.

## DECISION

**Motion by Coombe/Skraba** to approve a variance for a dwelling located nine feet from the property line, based on the following facts and findings:

A. Official Controls:

- 1. Zoning Ordinance 62, Article III, Section 3.2, requires a 15 foot property line setback for a principal structure. The applicant is requesting nine 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. The new cabin will be built in the same site as the old cabin. The original cabin was built in the 1940s.
- 4. The variance request is in harmony with the general purpose and intent of official controls.

B. Practical Difficulty:

- 1. The existing and proposed structure will be located within a steep slope.
- 2. The age and type of trees that would need to be removed if the structure was moved.
- 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 applicant is not proposing a new use to the area.
- 3. There have been no similar variance requests approved in the neighborhood.
- 4. The original cabin has been on this property since the 1940s. The new dwelling will be using the existing building footprint.
- 5. The variance request will not alter the essential character of the locality.

D. Other Factor:

- 1. The new cabin will be located approximately 130 feet from the shoreline.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. St. Louis County On-site Wastewater SSTS standards shall be followed.
3. Demolition debris shall be disposed of in accordance with St. Louis County Solid Waste Ordinance 45.

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

**Opposed:** McKenzie - 1

**Motion carried 5-1**

**Case 6286 – Joseph Skofich**

The fourth hearing item was for Joseph Skofich, subject property located in S4, T62N, R16W (Greenwood). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article VI, Section 6.10, to allow a second water orientated accessory structure where one is allowed. Board member *McKenzie* recused himself from the hearing because he worked with the applicant for 37 years. Board member *Coombe* stated he also knows the applicant. The Board of Adjustment did not ask that Board member *Coombe* recuse himself from the hearing. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a second water orientated accessory structure.
- B. The structure will be an approximately 140 square foot gazebo, which will be located 30 feet from the shoreline and 10 feet from the near property line.
- C. The gazebo will conform to all other water oriented accessory structure standards.
- D. This request is similar to a previous variance request the applicant withdrew from in 2019.
- E. The parcel has very good screening from the road and neighboring properties.
- F. The parcel has an approximate elevation change of 20 feet from the road to shoreline.

*Stephen Erickson* reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62 states that one water oriented accessory structure is allowed per parcel, per minimum lot standards. The applicant is requesting a second water oriented accessory structure where only one is allowed due to parcel size.
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. The parcel is located in the Lakeshore Development Area of the Comprehensive Land Use Plan. These areas are intended for rural development adjacent to lakes, including infill, new development, or redevelopment of existing residential, commercial, or mixed-use areas. This includes uses in size, scale, and intensity consistent with the county's developed lake shore area.

B. Practical Difficulty:

1. The current sauna is the allowed one water oriented accessory structure and is located approximately 58 feet from the closest point on the shoreline. In this case the closest point is measured from the neighboring parcel.
2. There are alternatives that do not require a variance.



- a. The applicant could relocate the existing sauna to a conforming shoreline setback of 75 feet.
- b. The existing sauna would be allowed an expansion up to 250 square feet.
- c. The proposed gazebo could be placed at a conforming location on the parcel.

C. Essential Character of the Locality:

1. There have been no variances of similar requests granted in the area.
2. A majority of the surrounding parcels have one boathouse or other type of water oriented accessory structure.

D. Other Factors:

1. The parcel does not have double the minimum lot dimensions, therefore only one water oriented accessory structure is allowed on the parcel.
2. If there were no water oriented accessory structure currently on the property, the proposed gazebo would meet all other water oriented accessory structure requirements.
3. The applicant requested a similar variance in 2019; however, the applicant withdrew prior to the hearing after discussion with staff on alternatives that exist that do not require variance.
4. The property was previously under Greenwood Township zoning administration; no permit record of the existing sauna is on file.
5. 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.

*Stephen Erickson* noted no items of correspondence.

**STAFF RECOMMENDATION**

Conditions that may mitigate the variance to allow a second water oriented accessory structure where one is allowed include, but are not limited to:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater runoff from the proposed structure shall not directly discharge into the lake or on adjacent lots.
3. If the sauna is ever replaced, it shall be located at a conforming location and only one water oriented accessory structure shall be allowed.
4. St. Louis County On-site Wastewater SSTS standards shall be followed.

*Joseph Skofich*, 618 Indiana Avenue, Gilbert, the applicant, addressed questions the Board had regarding the camper on the property. He stated he asked Julia Maki, then the Greenwood Township zoning director, where the camper could be placed to meet a 75 foot setback. He measured straight out 75 feet. He tried to do his best to place this camper in a legal spot using the information he had at the time. The camper is licensed. The camper is not hooked up to the septic. Concerning the sauna, the slab was poured in 1984. This was before they owned the property. He had an information sheet that shows a 50 foot setback was allowed. They have done a lot of work in painting and keeping up the sauna. Where they are proposing to locate the gazebo will be

conducive to the property. It will be aesthetic to the area, no leveling will be needed, and no trees will need to be removed. They want an area where they can sit and enjoy the lake. They have taken good care of the property. There is no plumbing going into the gazebo. The structure will be 144 square feet and octagonal in shape. It will be 12 feet across and 11 feet in height with the cupula. The gazebo will meet other setbacks. He has a letter from the neighbor from the left side in support of the gazebo. It will be moved to a tree line so it will not obstruct anything. He did look into moving the sauna. In speaking with a contractor, it would be over \$8,000 to just move it if that is even possible. This would not be financially feasible.

No audience members spoke. There were no virtual attendees at this time.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* asked about the setback for the existing sauna. *Stephen Erickson* stated the sauna has a 58 foot setback. Board member *Skraba* stated that the back of the sauna is 74 feet from the shoreline. Board member *Pollock* asked if staff measured the shoreline setback for the camper. *Stephen Erickson* stated that the applicant indicated 77 feet on the site sketch. Staff did not measure that distance on site. Board member *Pollock* stated he is familiar with this property and knew two of its previous landowners. That camper setback should be checked to make sure it is 75 feet from the shoreline. Board member *Werschay* added that this variance is for the gazebo and staff will handle the camper.
- B. Board member *Coombe* stated that the sauna was built in about 1980 at a reduced shoreline setback allowed at that time. *Stephen Erickson* stated that the structure was built under Greenwood Township's zoning jurisdiction. *Jenny Bourbonais*, Acting Secretary, stated there are no permits on file to verify that information. Staff cannot answer that it was an allowed setback at that time.
- C. Board member *Coombe* asked if this was built under Greenwood Township rules in 1980 and was built at a 50 foot shoreline setback how it could be nonconforming now? *Jenny Bourbonais* stated this current request is for a second water oriented accessory structure at a reduced shoreline setback on a property where only one is allowed. Board member *Coombe* stated that the sauna should be an accessory structure if it was built at a conforming setback in 1980. *Jenny Bourbonais* stated that the sauna is still a water oriented accessory structure at a reduced shoreline setback. The 50 foot shoreline setback is still a reduced shoreline setback for the 75 foot shoreline setback allowed on a General Development lake. The sauna would be the first water oriented accessory structure and the gazebo would be the second water oriented accessory structure. Any reduced setback would make a structure a water oriented accessory structure.
- D. Board member *Skraba* stated that the sauna was measured from closest point of shoreline which is located on the neighbor's property. He asked if the sauna was referred to as a water oriented accessory structure. *Joseph Skofich* stated that on the sheet he has, it was called an accessory structure with sauna listed below it.
- E. Board member *Pollock* asked if staff measures to the closest point to the water. *Jenny Bourbonais* stated yes, and sometimes the closest point to the lake is measured from a neighbor's property.
- F. Board member *Skraba* stated if the sauna is moved back to a conforming setback, the sauna is 16 foot long. The back of the structure would be on top of the septic system. Staff had

the alternative that the sauna could be relocated. The question is where the sauna would be relocated to. There is not enough room on the property for the sauna between the dwelling and the camper.

- G. Board member *Werschay* stated the sauna could add 250 square feet in size. *Jenny Bourbonais* clarified that the sauna would be allowed to be 250 square feet in total. The structure could be added onto to equal 250 square feet. Board member *Skraba* clarified that the sauna is about 160 square feet currently. The applicant is requesting a 144 square foot gazebo. The difference is 50 square feet.
- H. Board member *Pollock* stated he can agree with the rules from the 1980s.
- I. Board member *Pollock* asked about allowing a sauna at a 30 foot shoreline setback. *Jenny Bourbonais* defined a water oriented accessory structure: A small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. This could include saunas if they are at a reduced shoreline setback.
- J. Board member *Pollock* stated that the shoreline setback for the camper should be verified at 75 feet.

## DECISION

**Motion by Coombe/Skraba** to approve a variance to allow a second water oriented accessory structure 144 square foot in size and 11 feet in height as proposed, where one water oriented accessory structure is allowed, based on the following facts and findings:

### A. Official Controls:

- 1. Zoning Ordinance 62 states that one water oriented accessory structure is allowed per parcel, per minimum lot standards. The applicant is requesting a second water oriented accessory structure where only one is allowed due to parcel size.
- 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. The gazebo will be located 30 feet from the lake and 10 feet from the property line. It will not have running water or sewer.
- 4. The variance request is in harmony with the general purpose and intent of official controls.

### B. Practical Difficulty:

- 1. The current sauna is the allowed one water oriented accessory structure and is located approximately 58 feet from the closest point on the shoreline. In this case the closest point is measured from the neighboring parcel.
- 2. The sauna was a nonconforming structure built in the 1980s with permission from the Greenwood Township zoning authority.
- 3. This is a unique situation for this property. Someone else's property will not be like this. The information supplied to the Board from 1991 states that the sauna is an accessory structure located at 50 feet. In 2022, the sauna is now a water oriented accessory structure. The 1991 information allows interpretation that the sauna is an accessory structure.

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

C. Essential Character of the Locality:

1. There have been no variances of similar requests granted in the area.
2. A majority of the surrounding parcels have one boathouse or other type of water oriented accessory structure.
3. The proposed gazebo will be located 30 feet from the water.
4. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. This is a small structure which will be in unobtrusive (earth-tone) colors and will be located 30 feet from the shoreline and 10 feet from the property line.
2. The sauna should not be considered a second water oriented accessory structure. This should be the only water oriented accessory structure.

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.

**In Favor:** Coombe, Filipovich, Skraba, Werschay - 4

**Opposed:** Pollock – 1

**Abstained:** McKenzie - 1

**Motion carried 4-1-1**

**Case 6297 – Mary Batinich**

The fifth hearing item was for Mary Batinich, subject property located in S28, T62N, R15W (Breitung). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow an addition at a reduced road centerline setback. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct a 25 foot by 26 foot addition to an existing accessory structure.
- B. The addition will not meet the required 48 foot centerline setback as the applicant is proposing a 38 foot setback.
- C. The structure is currently a garage, and the proposed addition will include living space, changing the use of the structure to a principal dwelling.
- D. A lot line adjustment was done between the subject parcel and the adjoining parcel in 2021 but has yet to be recorded.

*Stephen Erickson* reviewed staff facts and findings as follows:

A. Official Controls:

1. Zoning Ordinance 62 requires a 48 foot setback from the centerline of Center Street. Center Street is a residential street in Soudan.

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 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 structure conforms to the 48 foot centerline setback. The proposed living space addition will be setback 38 feet from the centerline.
2. Center Street is a local road within the Plat of Soudan that is primarily used solely by the residents within the neighborhood. The Plat of Soudan is a unique area that is similar to municipal areas in the county and as such may warrant a different setback requirement than other local county roads.
3. The addition could, however, be adjusted to meet the required setback.

C. Essential Character of the Locality:

1. Twelve variances have been approved within in the Plat of Soudan for reduced centerline setbacks.
2. The 48 foot road centerline setback may not make sense for the Plat of Soudan as a majority of the existing structures do not conform to this setback.

D. Other Factors:

1. A lot line adjustment was approved in 2021 to separate the existing garage from the business on the adjoining parcel to the north.
2. Minnesota Power has submitted a letter stating the overhead powerlines in this location could be adjusted to accommodate for the proposed addition.
3. The Soudan Sanitary District has signed off on the proposal.

*Stephen Erickson* noted two items of correspondence from Jill Wagoner in support and Laura Zoller with concerns but not in opposition. This correspondence was provided to the Board of Adjustment prior to the hearing.

**STAFF RECOMMENDATION**

Conditions that may mitigate the variance to allow an addition to a structure resulting in a reduced setback of 38 feet from the centerline of Center Street as proposed include, but are not limited to:

1. The proposal shall adhere to all local, state, and federal regulations.
2. The parcel review shall be recorded prior to issuance of a land use permit.

*Mary Batinich*, 30 Center Street, Soudan, the applicant, stated she bought the old Soudan hospital five and a half years ago and it is now a bed and breakfast. At her age, she wanted somewhere to live. She took ten feet from that hospital property to add to this other parcel. She wants to turn the old garage into a house she can live in. The addition will have a bathroom and bedroom she can live in.

No audience members spoke. There were no virtual attendees at this time.

The *Board of Adjustment* discussed the following:

- A. Board member *Filipovich* asked if the applicant's proposal is building further away from the road. *Stephen Erickson* stated because of the way the road curves and the angle of measurement, the new construction will be closer to the road.
- B. Board member *Filipovich* asked what changes would be made to the power pole. Board member *Werschay* mentioned they could be made taller.
- C. Board member *Skraba* stated the road setbacks in Soudan are the same for any other rural area. Rural and city are different for a reason. Something should be done so that road centerline setbacks are not an issue and there are not so many variances in Soudan.

## DECISION

**Motion by McKenzie/Skraba** to approve a variance to allow an addition to a structure resulting in a reduced setback of 38 feet from the centerline of Center Street, based on the following facts and findings:

- A. Official Controls:
  1. Zoning Ordinance 62 requires a 48 foot setback from the centerline of Center Street. Center Street is a residential street in Soudan.
  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 applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
  4. The official controls recognize there may be instances where ordinance requirements may not reasonably fit the circumstances such as the applicant's situation to build in an urban setting when setback requirements are designed for a rural setting.
  5. The variance request is in harmony with the general purpose and intent of official controls.
- B. Practical Difficulty:
  1. The existing structure conforms to the 48 foot centerline setback. The proposed living space addition will be setback 38 feet from the centerline.
  2. Center Street is a local road within the Plat of Soudan that is primarily used solely by the residents within the neighborhood. The Plat of Soudan is a unique area that is similar to municipal areas in the county and as such may warrant a different setback requirement than other local county roads.
  3. The applicant's request is to add on to the existing building which does not meet setback requirements. The applicant wishes to convert the building to a dwelling but needs to expand the building to make it a reasonable size.
  4. Practical difficulty has been demonstrated in complying with the official controls.

C. Essential Character of the Locality:

1. Twelve variances have been approved within in the Plat of Soudan for reduced centerline setbacks.
2. The 48 foot road centerline setback may not make sense for the Plat of Soudan as a majority of the existing structures do not conform to this setback.
3. If granted a variance for a centerline setback is not unreasonable given the urban/residential setting.
4. The variance request will not alter the essential character of the locality.

D. Other Factors:

1. A lot line adjustment was approved in 2021 to separate the existing garage from the business on the adjoining parcel to the north.
2. Minnesota Power has submitted a letter stating the overhead powerlines in this location could be adjusted to accommodate for the proposed addition.
3. The Soudan Sanitary District has signed off on the proposal.
4. The structure has been located at this setback for decades. The applicant proposed to offset the addition which will result in a greater setback distance.
5. There have been 12 variances granted in the Plat of Soudan for road centerline setback.

The following conditions shall apply:

1. The proposal shall adhere to all local, state, and federal regulations.
2. The parcel review shall be recorded prior to issuance of a land use permit.

**In Favor:** Coombe, Filipovich, McKenzie, Pollock, Skraba, Werschay - 6

**Opposed:** None - 0

**Motion carried 6-0**

**Motion to adjourn by Skraba. The meeting was adjourned at 12:52 p.m.**