

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD VIRTUALLY ON THURSDAY, MAY 7, 2020.**

9:00 AM – 11:02 AM

Board of Adjustment members in attendance: Steve Filipovich  
James McKenzie  
Sonya Pineo  
Dave Pollock  
Roger Skraba (at 9:05)  
Ray Svatos  
Diana Werschay, Chair

Board of Adjustment members absent: None – 0

Also present: David Anderson, Alternate

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

**NEW BUSINESS:**

- A. Kyler Stolp, S36, T52N, R13W (Normanna) – 6211
- B. David Olson, S24, T54N, R13W (Unorganized) - 6212
- C. Steven Zgonc, S19/30, T60N, R21W (French) - 6213
- D. Robert Richards, S35, T61N, R13W (Unorganized) - 6214

**OTHER BUSINESS:**

**Motion by McKenzie/Filipovich** to approve the minutes of the March 12, 2020 meeting.

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

**Opposed:** None – 0

**Motion carried 7-0**

*Jenny Bourbonais*, Planning Manager, reiterated that the Board of Adjustment discussed oversized boathouses and that the message staff is conveying to the public is accurate. Each case is unique; however, the applicant needs justification (proof of burden) for boathouses larger than allowed by Ordinance and the State requirements other than the fact their boat is too big.

**NEW BUSINESS:**

**Case 6211 – Kyler Stolp**

The first hearing item was for Kyler Stolp, property located in S36, T52N, R13W (Normanna). The applicant is requesting after-the-fact relief 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. *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting a variance to allow a principal dwelling located 35 feet from the property line where 50 feet is required.

- B. The dwelling was originally permitted as a garage at a setback of 29 feet from the property line in 2012.
- C. A garage is considered an accessory structure with a required setback of 25 feet from the property line.
- D. The applicant purchased the property in 2015.
- E. The previous landowner converted the garage into a dwelling without a land use permit for a change in use from accessory structure to dwelling.
- F. The dwelling was found out when the applicant applied for a land use permit for a dwelling addition.
- G. There was a previous mobile home located on the property that was used as a dwelling at the time the garage was constructed.
- H. The dwelling is the only structure that is nonconforming. The shed, septic, well and driveway meet setbacks.

*Donald Rigney* reviewed staff facts and findings as follows:

A. Official Controls:

- 1. In a Multiple Use (MU)-4 zone district, Zoning Ordinance 62, Article III requires a minimum 50 foot property line setback for principal structures and a minimum 25 foot property line setback for accessory structures.
- 2. When permitted in 2012, the structure conformed to the required 25 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 applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
- 5. Through the Land Use Goals, Objectives and Implementation sections, the Land Use Plan is meant to provide ways of improving the variance process and encourages adherence to existing criteria to ultimately reduce the volume of variance applications received by the county.

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 as Land Use Permits were issued for both a dwelling and garage at conforming locations.
- 4. There are alternatives that do not require a variance:
  - a. Alternative: Submit Land Use Permit for a new dwelling, not attached to the existing dwelling, at the conforming setback as indicated on the Land Use Permit of the previously permitted structure. Submit a Land Use Permit for a change-in-use to convert the existing principal dwelling to an accessory dwelling (guest cabin/bunkhouse), thus meeting setback requirements.

- b. Alternative: Submit Land Use Permit for a new dwelling, not attached to the existing dwelling, at the conforming setback. Submit a Land Use Permit for a Change in Use to convert the existing principal dwelling to an accessory structure (garage), thus meeting setback requirements.
    - c. Alternative: Relocate the dwelling to a conforming principal structure setback.
    - d. Alternative: A minor boundary adjustment may be done to obtain more land to meet the required conforming setback for a principal dwelling.
  - 5. The dwelling was originally constructed as a garage by the previous owner. It was converted by the previous owner from a garage to a dwelling prior to seeking approval for a change in use with the Planning and Community Development Department.
  - 6. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.ii states:
    - a. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
    - b. Economic considerations alone shall not constitute practical difficulties if a reasonable use for the property exists under the terms of this ordinance.
  - 7. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.iv states:
    - a. When an applicant seeks a variance for additions or alterations to a lot or structure that have already commenced, it shall be presumed that the changes to the lot or structure were intentional and the plight of the landowner was self-created, as per Minnesota Statute, Section 394.27 Subdivision 7 and all acts amendatory thereof.
- C. Essential Character of the Locality:
- 1. The applicant is not proposing a new use to the area as there are other residential properties in area. The dwelling is currently used as a year-round residence.
  - 2. There have been no similar variances in the area.
- D. Other Factors
- 1. If the variance is granted, the applicant intends to construct a 2,112 square foot addition to the existing nonconforming dwelling with the intent to utilize the structure as a primary residence.
    - a. In 2008, a Land Use Permit was issued for a 1,854 square foot dwelling that conformed to all zoning requirements. The dwelling was never built.
  - 2. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
- E. Was the construction completed prior to applying for the variance?
- 1. The conversion of the garage to a dwelling was completed between 2012 and 2015. This was done prior to the applicant purchasing the property.
  - 2. The applicant contacted county staff to apply for an addition which brought the violation to light.
  - 3. The applicant was made aware of and discussed the alternatives that do not require a variance with staff and elected to pursue a variance to correct the violation created by the previous owner.

- 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.
  2. Approval of an after-the-fact variance for a structure that was permitted as a different use and is now at a nonconforming location without sufficient practical difficulty is not keeping with the intent of the St. Louis County Zoning Ordinance or St. Louis County Comprehensive Land Use Plan.

*Donald Rigney* noted the resolution from Normanna Township in support of this variance request. This item was provided to the Board of Adjustment prior to the hearing.

### **STAFF RECOMMENDATION**

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow after-the-fact relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.2, to allow a principal structure to be located at a reduced property line setback, the following conditions shall apply:

1. Stormwater runoff shall not discharge directly onto adjacent properties.
2. In the event that the structures are rebuilt or moved any distance, they shall meet all Zoning Ordinance requirements.

*Kyler Stolp*, the applicant, stated that this is already an existing dwelling. If he sold the property as is, this structure would still be a primary dwelling. If the variance is approved, he would utilize the existing structure as an attached garage and the addition would be used as a primary residence. The addition would be placed where he would not have to disturb the soil or remove trees. Otherwise he would want to build further back and hope to have an attached garage. This would be out of his budget and he would not be able to do that. He spoke with his neighbor who did not have any issues with this variance.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Skraba* inquired if the wetland issues in the original garage permit would require a wetland delineation before any further work could be done. *Donald Rigney* stated the concern was the driveway impacting wetlands, not structures.
- B. Board member *Filipovich* inquired if the septic system was in use in 2009. *Donald Rigney* stated there had been a mobile home on the property and the septic had been in use at the time. If the structure is approved for expansion, the septic system would need to be reviewed for the number of bedrooms.
- C. Board member *Skraba* asked the applicant to say why a detached garage would not work.
- D. Board member *McKenzie* inquired if the applicant had considered a boundary line adjustment to purchase a small piece of his neighbor's property so that the dwelling would be at a conforming setback. *Kyler Stolp* stated that he has not looked into this. It would also

take longer because a survey may be required. He did not think that he needed to change the property line, but that would be the next best option.

- E. Board member *Pollock* asked if the existing structure would be compliant once the dwelling addition is added on. *Jenny Bourbonais*, Acting Secretary, stated that any addition to a dwelling would still make the structure a dwelling, even if the portion that is a dwelling now is turned into a garage. If the structure were detached, it could be converted into a garage. The structure would be conforming if it were an accessory structure.

## **DECISION**

**Motion by Pollock/Skraba** to deny an after-the-fact variance to allow a principal structure to be located at a reduced property line setback, based on the following staff facts and findings:

A. Official Controls:

1. In a Multiple Use (MU)-4 zone district, Zoning Ordinance 62, Article III requires a minimum 50 foot property line setback for principal structures and a minimum 25 foot property line setback for accessory structures.
2. When permitted in 2012, the structure conformed to the required 25 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 applications are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
5. Through the Land Use Goals, Objectives and Implementation sections, the Land Use Plan is meant to provide ways of improving the variance process and encourages adherence to existing criteria to ultimately reduce the volume of variance applications received by the county.

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 as Land Use Permits were issued for both a dwelling and garage at conforming locations.
4. There are alternatives that do not require a variance:
  - a. Alternative: Submit Land Use Permit for a new dwelling, not attached to the existing dwelling, at the conforming setback as indicated on the Land Use Permit of the previously permitted structure. Submit a Land Use Permit for a change-in-use to convert the existing principal dwelling to an accessory dwelling (guest cabin/bunkhouse), thus meeting setback requirements.
  - b. Alternative: Submit Land Use Permit for a new dwelling, not attached to the existing dwelling, at the conforming setback. Submit a Land Use Permit for a Change in Use to convert the existing principal dwelling to an accessory structure (garage), thus meeting setback requirements.
  - c. Alternative: Relocate the dwelling to a conforming principal structure setback.

- d. Alternative: A minor boundary adjustment may be done to obtain more land to meet the required conforming setback for a principal dwelling.
  5. The dwelling was originally constructed as a garage by the previous owner. It was converted by the previous owner from a garage to a dwelling prior to seeking approval for a change in use with the Planning and Community Development Department.
  6. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.ii states:
    - a. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
    - b. Economic considerations alone shall not constitute practical difficulties if a reasonable use for the property exists under the terms of this ordinance.
  7. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.iv states:
    - a. When an applicant seeks a variance for additions or alterations to a lot or structure that have already commenced, it shall be presumed that the changes to the lot or structure were intentional and the plight of the landowner was self-created, as per Minnesota Statute, Section 394.27 Subdivision 7 and all acts amendatory thereof.
- C. Essential Character of the Locality:
1. The applicant is not proposing a new use to the area as there are other residential properties in area. The dwelling is currently used as a year-round residence.
  2. There have been no similar variances in the area.
- D. Other Factors
1. If the variance is granted, the applicant intends to construct a 2,112 square foot addition to the existing nonconforming dwelling with the intent to utilize the structure as a primary residence.
    - a. In 2008, a Land Use Permit was issued for a 1,854 square foot dwelling that conformed to all zoning requirements. The dwelling was never built.
  2. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
- E. Was the construction completed prior to applying for the variance?
1. The conversion of the garage to a dwelling was completed between 2012 and 2015. This was done prior to the applicant purchasing the property.
  2. The applicant contacted county staff to apply for an addition which brought the violation to light.
  3. The applicant was made aware of and discussed the alternatives that do not require a variance with staff and elected to pursue a variance to correct the violation created by the previous owner.
- 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.
2. Approval of an after-the-fact variance for a structure that was permitted as a different use and is now at a nonconforming location without sufficient practical difficulty is not keeping with the intent of the St. Louis County Zoning Ordinance or St. Louis County Comprehensive Land Use Plan.

**In Favor:** Filipovich, McKenzie, Pineo, Pollock, Skraba, Svatos - 6

**Opposed:** Werschay - 1

**Motion carried 6-1**

**Case 6212 – David Olson**

The second hearing item was for David Olson, property located in S24, T54N, R13W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3, to allow two additions to a nonconforming principal structure located within 25 feet of the shoreline, where no additions are allowed. *Donald Rigney*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing two additions totaling 604 square feet to a nonconforming principal structure that is located 21 feet from Smith Lake.
- B. One proposed addition is a 12 foot by 32 foot addition to the north side of the structure, which is to the side.
- C. The other proposed addition is a 22 foot by 10 foot addition to the west side of the structure, which is to the rear.
- D. The proposed height of the structure additions is 12 feet where 20 feet is allowed.
- E. These additions are to convert a seasonal cabin into a year-round home and provide additional living space.
- F. There are three older plats around Smith Lake; a majority of these structures were built as seasonal structures prior to zoning regulations.
- G. Shoreline averaging would allow a new structure at 73 feet.

*Donald Rigney* reviewed staff facts and findings as follows:

- A. Official Controls:
  1. Smith Lake is classified as a Recreational Development lake and requires a minimum 100 foot shoreline setback.
    - a. The shore impact zone for Recreational Development lakes is 50 feet.
    - b. The current structure is located 21 feet from the lake.
  2. Zoning Ordinance 62, Article IV, Section 4.3, states that if a structure is located within zero and 25 feet from the shoreline, a variance is required for any additions.
  3. The property falls within the Forest and Agriculture future land use category in the St. Louis County Comprehensive Land Use Plan.
  4. 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.

5. 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.
6. 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 circumstances of the property that the owner did not create.
2. The landowner has not clearly demonstrated why the variance is the only available option as there are alternatives.
  - a. Alternative: Remodel the interior of the existing structure and construct a conforming accessory dwelling up to 700 square feet at a conforming location.
  - b. Alternative: Construct a conforming replacement dwelling utilizing shoreline averaging to construct the dwelling no closer than 73 feet from Smith Lake.

C. Essential Character of the Locality:

1. The applicant is not proposing a new use to the area. There are numerous residential dwellings on Smith Lake.
2. Cyndie Tract Plat was created in 1963, prior to zoning regulations and setback requirements.
  - a. At that time, structures were primarily of seasonal use.
3. Six of the seven dwellings in Cyndie Tract Plat are within the shoreline setback of Smith Lake.
  - a. The seventh dwelling was granted through a Conditional Use Permit on June 21, 1968. This was after the first zoning ordinance in St. Louis County with Land Use requirements, lot area standards and setbacks was adopted on January 13, 1968.
4. There have been no similar variances within the Cyndie Tract Plat.

D. Other Factors:

1. Zoning Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.
2. Zoning Ordinance 62, Article VIII, Section 8.6 B(4)b.ii states:
  - a. Economic considerations alone shall not constitute practical difficulties if a reasonable use for the property exists under the terms of this ordinance.
3. Objective LU-3.2 of the St. Louis County Comprehensive Land Use Plan is to have county staff and decision-makers work together to decrease the amount of zoning ordinance nonconformities throughout the county.
  - a. Increasing a nonconformity in size and intensity of use where alternatives exist, without sufficient practical difficulty, is not in keeping with the intent of the St. Louis County Ordinance or St. Louis County Comprehensive Land Use Plan.

*Donald Rigney* noted no items of correspondence.



## STAFF RECOMMENDATION

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow addition(s) to a nonconforming principal structure within 25 feet of the shoreline where no additions are allowed, the following conditions shall apply:

1. The structure addition(s) shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater from the proposed structures shall not discharge directly into the lake or onto adjacent parcels.
3. An erosion control plan shall be submitted, approved by the county, and shall be implemented by the property owner prior to issuance of the land use permit.
4. A plan to enhance vegetation and protect the shore impact zone shall be submitted, approved by the county, and shall be implemented by the property owner within two years of the issuance date of the permit.
5. All SSTS sewage treatment standards shall be met.

*David Olson*, the applicant, stated that the addition would make the structure a more livable space. He has elderly parents and adding on would allow the structure to be more accessible for them. They are getting closer to retirement and would like to be down to one house. They realize the structure is very close to the lake. The additions will not change the lake setback and the closest addition would be 40 feet from the shoreline. One of staff's alternatives to move the structure back would not work as there is a 24 feet rise in just a short distance. They would need to excavate the hillside which would not be feasible. They have spoken to their neighbors and they are in support of this. They purchased the property in 2018 and have cleaned it up and restored an eyesore.

No audience members spoke.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* inquired what addition size would be allowed if the structure were outside the shore impact zone. *Donald Rigney* stated that if the structure was outside the 25 foot setback but within the shore impact zone, they would be allowed an addition size of 200 square feet with a performance standard permit. If the structure were located outside of the shore impact zone, they would be allowed an addition size of 400 square feet with a performance standard permit.
- B. Board member *Pollock* inquired if there is any hardship due to the topography? *Donald Rigney* stated that the rise is considered a steep slope but it is not a bluff. Houses have been built in steep slopes before. They would not be allowed to build if there was a bluff.

## DECISION

**Motion by Skraba/McKenzie** to approve a variance to allow addition(s) to a nonconforming principal structure within 25 feet of the shoreline where no additions are allowed, based on the following facts and findings:

- A. Official Controls:
  1. The variance request is in harmony with the general purpose and intent of official controls.

2. Because of the topography, the property would need to be redone, including the driveway and septic.
3. This may be the only location to build a house on the property.

B. Practical Difficulty:

1. The steep hill makes it impractical to move the structure further back.

C. Essential Character of the Locality:

1. The variance will not alter the essential character of the locality.
2. Almost all of the structures on the lake are nonconforming.

D. Other Factors:

1. Most structures in this area are nonconforming.
2. There should be no rule to enhance vegetation to protect the shore impact zone. There are trees located in the shore impact zone.

The following conditions shall apply:

1. The structure addition(s) shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The stormwater from the proposed structures shall not discharge directly into the lake or onto adjacent parcels.
3. An erosion control plan shall be submitted, approved by the county, and shall be implemented by the property owner prior to issuance of the land use permit.
4. All SSTS sewage treatment standards shall be met.

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

**Opposed:** Pineo, Pollock, Svatos - 3

**Motion carried 4-3**

**Case 6213 – Steven Zgonc**

The third hearing item was for Steven Zgonc, property located in S19/30, T60N, R21W (French). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article IV, Section 4.3 D., to allow an addition to a principal dwelling that is located within the shore impact zone and nonconforming to a property line setback. *Stephen Erickson*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is proposing to construct an 18 foot by 11 foot addition to the rear of an existing 620 square foot dwelling.
- B. The dwelling is located 10.2 feet from the property line at the closest point where 15 feet is required.
- C. The dwelling is located 44 feet from the shoreline where 75 feet is required.
- D. The addition will be located on the side of the dwelling that conforms to the property line setback and will not go closer to the property line than the existing dwelling already is.
- E. The property is split between Residential (RES)-11 and Shoreland Multiple Use (SMU)-8.
- F. The parcel is relatively flat.

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

A. Official Controls:

1. Zoning Ordinance 62 allows up to a 200 square foot addition for dwellings that are located within the shore impact zone and conform to property line setbacks. The existing dwelling is located 44 feet from the shoreline where a 75 foot setback is required and approximately 10 feet from the rear property line where a 15 foot setback is required.
2. A maximum of a 200 square foot addition would be allowed with a performance standard permit if the structure met the property line setback.
3. The parcel is located in the Lakeshore Development Area on the Future Land Use Map in the St. Louis County Comprehensive Land Use Plan. This area is intended for rural development and redevelopment adjacent to lakes. This includes single family residential uses in size, scale and intensity consistent with the county's developed lake shore area.

B. Practical Difficulty:

1. Due to the location of the dwelling, no expansion is allowed without variance.
2. The parcel is a 60 foot wide platted lot of record. If the existing dwelling were centered on the lot, it still would not conform to the 15 foot property line setbacks, in the current configuration.
3. A structure 30 feet in width would meet ordinance requirements of 15 foot property line setbacks.

C. Essential Character of the Locality:

1. A majority of the dwellings in the area are located at nonconforming shoreline setbacks. The area was platted in 1953 prior to ordinance requirements.
2. There have been no similar variances approved within the plat of Sturgeon Beach 2nd Addition.

D. Other Factors:

1. The proposed addition would be allowed if the dwelling conformed to the property line setback of 15 feet. However, if the dwelling were centered on the lot, it still would not conform to the required 15 foot property line setbacks due to the existing size of the structure.
2. In the event of future ordinance amendments, staff may consider amending the following language from Zoning Ordinance 62, which does not allow a 200 square foot addition when the existing structure does not conform to property line setbacks and located within the shore impact zone. "The existing principal structure does not encroach upon a property line or local road setback, if within the shore impact zone."
3. It is not clear why Zoning Ordinance 62 prohibits additions without variance that meet the performance standard permit standards due to not meeting two setbacks. Similar variances have been approved by the BOA in recent years if performance standards are met. A survey may be necessary to ensure the structure is located on an applicant's property.

*Stephen Erickson* noted no items of correspondence.

## **STAFF RECOMMENDATION**

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow an addition to a principal dwelling that is located within the shore impact zone and nonconforming to a property line setback, 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.

*Steven Zgonc*, the applicant, stated this cabin was built in 1965 by his parents. The addition is 198 square feet to conform into his entryway. The addition will have a utility room and a washer/dryer to make this structure semi year-round so his parents can enjoy it. The addition will make this structure more comfortable for them.

No audience members spoke.

## **DECISION**

**Motion by Skraba/McKenzie** to approve a variance to allow an addition to a principal dwelling that is located within the shore impact zone and nonconforming to a property line setback, based on the following facts and findings:

### **A. Official Controls:**

1. The variance request is partially in harmony with the general purpose and intent of official controls. This is an old lot of record. Anything that is built will not be in compliance.

### **B. Practical Difficulty:**

1. The request is reasonable.
2. The addition will not be any closer to the shoreline or to the side property lines.

### **C. Essential Character of the Locality:**

1. The variance will not alter the essential character of the locality. Most of the lots in the area are small.

### **D. Other Factor:**

1. This issue should be considered at some point with a performance standard permit.

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:** Filipovich, McKenzie, Pineo, Pollock, Skraba, Svatos, Werschay - 7

**Opposed:** None – 0

**Motion carried 7-0**

### **Case 6214 – Robert Richards**

The fourth hearing item was for Robert Richards, property located in S35, T61N, R13W (Unorganized). The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.6, to allow an addition to an occupied structure that will not meet minimum setback requirements of the St. Louis County sewage treatment standards. *Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is proposing a 24 foot by 18 foot addition located 8 feet from the drain field where 20 feet is required.
- B. The addition would be located on the north side of the dwelling.
- C. There is currently a principal dwelling, two accessory structures, septic system and a well on the parcel.

*Jared Ecklund* reviewed staff facts and findings as follows:

- A. Official Controls:
  - 1. Zoning Ordinance 62, Article III, section 3.6 states that all occupied structures shall meet the minimum setback requirement of the St. Louis County sewage treatment standards.
  - 2. SSTS Ordinance 61 Article I, Section 4, adopts Minnesota Rules 7080, 7081, 7082 and 7083 in their entirety. Minnesota Rules 7080.2150 Table VII, requires a 20 foot setback for septic drain fields from structures. The applicant is requesting an 8 foot setback.
- B. Practical Difficulty:
  - 1. The existing dwelling location on the parcel along with the location of the septic tank limit the applicant's ability to conform to setback requirements.
  - 2. The septic tank's current location would limit the ability for an addition to the west side of the structure. An addition to the east side may encroach upon the 48 foot road centerline setback.
  - 3. The only alternatives would require relocation of the septic tank or drain field.
- C. Essential Character of the Locality:
  - 1. The surrounding area is mostly half acre platted lots with a 20 acre parcel to the north.
- D. Other Factors:
  - 1. The applicant has been working with the department on alternatives that would not require a variance, including possibly moving the drain field further north and obtaining an easement or additional acreage from the property owner to the north. No agreement has yet been made and the applicant has indicated that these alternatives may be cost prohibitive due to survey and easement costs.

*Jared Ecklund* noted no items of correspondence.

### **STAFF RECOMMENDATION**

In the event that the Board of Adjustment determines that the proposal meets the criteria for granting a variance to allow an addition to an occupied structure that will not meet minimum

setback requirements of the St. Louis County sewage treatment standards, the following condition shall apply:

1. Stormwater runoff shall not discharge directly towards the drain field.

*Robert Richards*, the applicant, stated he had nothing to add.

No audience members spoke.

Board member *Pollock* asked what the On-Site Wastewater Division's thoughts are about the addition being 8 feet from the septic. *Jenny Bourbonais*, Acting Secretary, stated On-Site did review this situation and they go by the required 20 foot setback. The alternatives that they stated are the same as staff's alternative. If they go by the easement, the easement would need a survey. The easement would have to describe the terms of use. They would need a variance for the 20 foot setback and they would need to describe the reason why this variance is the only option. If a variance were approved for this request, the applicant would need to go through the On-Site Wastewater Division for approval.

## **DECISION**

**Motion by Skraba/Pollock** to approve a variance to allow an addition to an occupied structure that will not meet minimum setback requirements of the St. Louis County sewage treatment standards, based on the following facts and findings:

**A. Official Controls:**

1. The variance request is partially in harmony with the general purpose and intent of official controls. The applicants cannot move the house. If the drain field fails, the septic may have to be moved away from the addition. If there was a health and safety issue, St. Louis County staff would have stated 8 feet is too close.

**B. Practical Difficulty:**

1. The applicants have done everything they could aside from an easement and a survey in order to obtain more land.

**C. Essential Character of the Locality:**

1. This variance will not change the character of the area.

**D. Other Factor:**

1. There is good soil in the area with good draining conditions. If the soils conditions were different, there may have been another issue.

The following condition shall apply:

1. Stormwater runoff shall not discharge directly towards the drain field.

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

**Opposed:** None - 0

**Motion carried 7-0**

**Motion to adjourn by Skraba. The meeting was adjourned at 11:02 a.m.**