

predates the zoning ordinance and thus resulted in several structures being constructed within the setback of a township roadway.

Snyder stated that the applicant's stated practical difficulty is that the existing infrastructure is setup for the dryer in its existing location and an existing row of bins located to the north of the project cannot be pushed further off the roadway. In the landowners' opinion, the request is consistent with the ordinance and local controls as the township already weighed in on the request. He added that it allows the site to be used in a reasonable manner and continue the farming operation on the site. The variance will maintain the essential character as he owns the land on both sides of the road in the section along 325th Street SE. Existing infrastructure is the most important part of the request and the request involves replacement of an existing structure with a more efficient dryer that involves more than just economics. There is no other alternative to alleviate the need for the variance.

Snyder said Ray Sundrud, Hill River Township, send our office an email stating that Richard approached the Township seeking their input on the aforementioned variance request. During the June 14, 2021 Hill River Township meeting a motion was made and approved to allow Richard to construct a new bin as long as it is a minimum of 30 feet from the centerline of 325th Street SE.

Snyder then went over slides showing the application, location map, photos of the property, and a sketch/drawing. Snyder made sure to clarify that originally, they were going to move two existing grain bins, but with some new electrical that had to be done, there is only room to move one of the exiting grain bins.

Powers asked if there were any questions? Roed stated that most people in the area treat 325th St SE as the Roed's own driveway. Occasionally there is another farmer that comes through with equipment, but not much other traffic. Roed said his daughter and her family are the only ones living here. Roed also said he does most of the maintenance himself verses the township as he feels the majority of the use is from his family. Roed said there is a possibility of pursuing making it a private driveway in the future. Roed also said he doesn't foresee in his lifetime any other buildings going up near this road.

Snyder said that staff feels that the request involves a practical difficulty, unique circumstances and the proposal is reasonable as the structure replaces an existing dryer and doesn't further encroach on the roadway than existing structures on the site. Staff reminds the Board of Adjustment that they have two jobs in the variance process, 1. Determine if the request involves a practical difficulty, 2. Answer the variance questions with a board majority yes to all variance questions. For these reasons staff recommends approval of the variance with the following conditions:

1. All structures and structural attachments involved with this project are located at least 30 feet from the center of 325th St SE.

Powers asked if anyone had further questions. Hearing none, Powers then closed the meeting for public testimony.

With no other questions or comments from the Board, Snyder asked the Board the variance

Snyder said the variance request is to locate the proposed 1,200 sq ft structure 250 feet instead of 300 feet from the OHWL of Cable Lake. As well, the request involved a shed over 800 sq ft in size located 30' from the township ROW instead of 40 feet. The applicant stated that the practical difficulty is that the building will be located 250 feet instead of 300 feet from the OHWL of Cable lake and 30 feet from the road ROW instead of 40 feet. He added that he is locating it as far from the lake and road ROW as possible and he has tried to purchase a backlot but was unable to do so. The use would be personal cold storage and there are other lots located on the north side of the lake that also have sheds larger than 800 sq ft. In the landowners' opinion, the variance is consistent with the zoning ordinance as it would meet 80% of the setbacks. The location is attempting to stay as far from the lake and road ROW as possible.

Snyder said Stephanie Klamm, MN DNR Area Hydrologist comment via letter stating:

Thank you for sending me the variance application submitted by Mike Weik requesting a reduction in the setback from the ordinary high-water level (OHWL) from 300' to 250' and a reduction in the setback from the township road ROW from 40' to 30' for the construction of a new accessory structure (30' x 40' or 1,200 sq ft) on a riparian parcel. This variance request is for parcel #32.00313.00. The lot of record is currently a conforming lot located on Cable Lake in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, T149N, R43W, Grove Park Township, Polk County.

The Weik variance request is for the reduction in the OHWL setback requirements on a Recreational Development Lake from 300' to 250' for an accessory structure. The primary purpose of shoreland controls is to protect water quality and habitat. Shoreland controls minimize erosion and sedimentation into public waters by limiting density and the placement of structures away from the shore. This means reducing, over time the number of non-conforming structures within the shore impact that fall short of meeting current shoreland standards.

Minnesota State Statute 394.27 Creation and Duties of Board of Adjustment, subd. 7 Variances: practical difficulty reads: Variances shall only be permitted when they are in harmony with the general purpose and intent of the official controls and are consistent with the comprehensive plan. Variances may be granted when the applicant establishes there are practical difficulties in complying with the official control. "Practical difficulties", as used in the connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic consideration alone does not constitute practical difficulties.

Below are three of the criteria I use to point out key considerations in interpreting the statute and whether the variance request should be approved:

Unique Circumstances: Unique circumstances are related to physical characteristics on the land such as lot shape and dimensions. Personal matters unrelated to the property itself such as growing family, design preferences or economic circumstances should not qualify as unique circumstances. In this case, the Weik's state there are no unique circumstances. Their position is they need another shed for cold storage and the circumstances are that they cannot buy a back lot. There are other options that may not have required a variance or would allow the lot to be more in compliance with the

shoreland ordinance, so there are no unique circumstances in this situation; the variance is being driven by personal matters unrelated to the property.

Essential Character: Essential character is whether the resulting structure or land disturbance will alter hydrology, soil stability, vegetation, aesthetics and landscape features on the site, or be out of place or scale or otherwise inconsistent with the surrounding area. The application mentioned that other properties on this side of Cable Lake have accessory structures larger than 800 square feet. By adding an additional accessory structure over the allowed 800 sq ft along with the existing detached garage that is 720 sq ft. the applicant is over the allowed 800 sq ft allowed in the ordinance for a variance and over the 1600 sq ft accessory structure allowed with a CUP. By adding another shed on the property, the applicant will be increasing the impervious surface coverage and adding in more stormwater runoff into the lake.

Reasonable Manner: This criterion asks if the request is reasonable given the purpose of the ordinance requiring the structure setbacks. This statutory criterion is from the perspective of what the ordinance is trying to achieve, not what the property owner thinks is a reasonable use. The purpose of this provision is to protect public water resources from soil erosion and nutrient pollution.

Variance requests should only be the minimum deviation necessary to achieve the purpose of the ordinance. In the application, the Weik's state in question #2 that they will be building the shed and will stay back as far from the road right-of-way and the lake ordinary high-water level (OHWL) as possible. The property owners have created the need for the variance by not being able to meet setbacks by asking for the size of the structure they want. In looking at the set up on the lot, it is quite possible that the shed could be orientated to meet the OHWL setback and not the road right-of-way setback or there could be a reduction in the number of structures on the lot (removal of existing garage) or minimizing the size of the new structure to meet all the setbacks, which would alleviate the need for the variance request.

After viewing the application, it appears that the variance request is being driven by the economic and design preference of the owner. In the variance request information, the applicant answers both "yes" to questions #1 and #3. Both of these questions are intended to assess whether practical difficulties exist. Statute state that variance may be granted when the applicant established that there are practical difficulties in complying with the official control.

Please review these requirements carefully when determining whether or not to grant the requested variance.

The Weik's should investigate other options that could be implemented which would comply with the shoreland ordinance.

Snyder then went over slides showing the application, site location map, sketch/drawing and site photos. Snyder said the lot is heavily vegetated and the owner wants to leave vegetation between the road and proposed shed and also between the shed and the lake.

Snyder stated staff feels that there are other options like adding an addition onto the existing attached garage to gain additional storage space. The landowner could also add onto the existing detached garage through a conditional use application which could allow the structure to go up to 1,600 sq feet. The variance request doesn't seem to meet the "practical difficulty" criteria or

demonstrate the lot has unique circumstances driving the variance request. The request seems to be driven by personal preference and is economically motivated.

Snyder said staff reminds the Board of Adjustment that they have two jobs in the variance process. 1. Determine if the request involves a practical difficulty. 2. Answer the variance questions with a board majority yes to all variance questions. If the BOA recommends approval of the variance, they should consider the following conditions:

1. The building be constructed in a natural color to boost its visual aesthetics. Natural earth tones of brown, green or tan shall be acceptable.
2. No future development shall be allowed on the lot that would exceed the 25% impervious surface requirement. This shall include sidewalks, patios, pavers, etc.
3. Existing trees should be maintained to screen the structure from view of the water.
4. The proposed structure has a maximum height of 15 feet to the peak.

Powers opened the meeting to questions from the landowner or Board. Powers asked if Weik considered adding onto the existing garage? Weik said he did after visiting with Snyder. His concern is that he wouldn't meet the max height of 15' if he added onto it. There is buried underground cable and electrical wires that restrict where could add on and limit the size of the addition. Snyder asked if there were any problems with the septic? Weik said no. Snyder then said if there are problems do you feel there is enough area to do a new septic if the proposed shed is built? Weik said yes. Weik said it is easier to put up this detached shed and avoid all the cables and electrical and the roofline max height than attaching it to the existing. Snyder said the 15' max height is required unless it is over 300' away from OHWL.

Powers asked about the garage apron. Snyder had no pictures to show that. Weir said he wants the shed for storage of his boat, his sons' boat and other items they use at the lake. He doesn't like things stored outside. He tried to buy a back lot, but it is not available. He said he thought a 30 x 40 was practical and that the existing detached garage is turning into a shop. Franks asked if it is visible from the main road. Weik said in winter possibly without foliage on the trees. In the summer it should be blocked. Powers asked if Weik can make the shed smaller? Weik said everyone said to not go any smaller. Powers stated he has troubles with this request. Would prefer Weik shorten it and move it over to meet setbacks. Weik said if he moved it over next to the current existing detached garage you would see it from the road. Powers said if you made it smaller it would lessen things.

Weir verbalized his complaint about the neighbors who's house and outbuildings are closer to the lake than his house and also the proposed shed. The house was permitted after his which was required to be 100' off OHWL. Powers said that two wrongs do not make a right. We are not talking about them. Snyder said just because things were allowed and are wrong doesn't mean we continue to make those mistakes.

Powers asked about a variance to go for 800 sq ft. Snyder said he would need a CUP not a variance. Weir said you read that if approved a natural color was suggested as a condition. If approved he was planning on a grey to match the existing buildings, as his wife told him to.

Powers then closed the meeting for public testimony.

With no other questions or comments from the Board, Snyder asked the Board the variance Questions.

Question	Franks	Phillips	Gagner	Wright	Powers
1.	No	Yes	No	No	No
2.	No	No	No	No	No
3.	Yes	Yes	Yes	Yes	Yes
4.	No	Yes	No	Yes	No
5.	Yes	Yes	Yes	No	Yes
6.	Yes	Yes	Yes	Yes	yes

Reasons for answers:

1. No - Not compatible with ordinance
Yes – been through these before, not sure why so many complications
2. No – not consistent with the Zoning Ordinance
3. Yes – storage
4. No – landowner request, personal matter, property owner created need, there is room to move it
Yes – unique due to lot size, restricts what he really likes to do.
5. Yes – compliments rest of the area, similar to others and he can get lots stored in it

Snyder stated with 17 yes's and 13 no's, and not having a majority of yes's for each question, the criteria to grant the variance has not been met.

A motion was made by Franks to deny the variance request. Second by Wright.

Ayes: all

Nays: none

Weik said he would look into an 800 sq ft shed. Snyder said with the other sheds you currently have plus an 800 sq ft shed, it would put your total sq ft under 1600 sq ft, but you would need a conditional use permit and that is another hearing. The deadline for applying for August hearings is Monday, August 2, 2021.

Meeting adjourned.