

Polk County
Board of Adjustments
May 23, 2014

Call to Order: 10:24 A.M.

Members in Attendance: Kerry Winkelmann, Robert Franks, Courtney Pulkrabek, Donovan Wright and alternate Rolland Gagner.

Members Absent: Osmund Moe

Also Present: Polk County Environmental Services' staff: Josh Holte & Michelle Erdmann.

Minutes: A motion was made by Wright to approve the minutes from April 25, 2014 meeting. Second by Franks. All in favor.

Public Hearing: Variance Ronnie Trudeau Parcel #29.00127.04

Winkelmann read the notice, waiving the reading of the full legal, and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to exceed the allowed square footage for an accessory structure on a parcel of land less than 2 acres in size in the Agricultural District.

PCZO allows for a maximum size of 1200 sq. ft., said requirements are found in Section 13.4210. The property is 1.36 acres. The applicant currently has a 40' x 122' storage shed on the property. He would like to add a 22' x 89' lean to addition on the building. The applicant received a CUP in 1996 to construct the storage building which was possible at that time because the property was over 2 acres in size. Since the property is now less than 2 acres in size this request needs to be authorized by a Variance.

The applicant's stated practical difficulty is the need to store trailers and equipment inside. A Variance is needed because the applicant doesn't own and can't acquire any more land around his building site. No comments have been received.

Holte went over slides of the property and its location. Staff would like to leave the decision up to the Board to determine if a practical difficulty exists, but we don't have any concerns with this request.

Gagner asked if the property has been split. Holte said it had and now only contains the 1.36 acres.

The Board had no further questions for Mr. Trudeau. Holte asked the board the hardship questions.

Question	Pulkrabek	Franks	Gagner	Wright	Winkelmann
1.	No	No	No	No	No
2.	No	No	No	No	No
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	Yes
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 30 No's and 5 Yes's the criteria has been met if the Board wishes to grant the variance.

Pulkrabek made a motion to approve the variance request. Second by Wright. All in favor.

Public Hearing: Variance Vernon Gustafson Parcel #45.00190.01

Winkelmann read the notice, waiving the reading of the full legal, and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to place a second home on a parcel of land that doesn't have frontage on a public road. PCZO requirements are found in Section 13.3200.

The property is currently 2.3 acres. The property currently has a 33' easement over the existing driveway. The practical difficulty is that the applicant would like to place a mobile home on the property where his son lives so that the applicant and his daughter can live there on the property. His daughter is the applicant's caregiver, but would like the daughter to be able to live on the property permanently after the applicant no longer resides there. Since this structure is meant to be permanent it wouldn't qualify for a temporary dwelling or an interim use permit.

The main reason they need a variance is because they don't have access on a public road. They would need to plat their driveway in order to avoid needing the variance. The applicant will need to put a new septic system in to serve the mobile home and the structure will need to meet all applicable setbacks.

No comments were received. Holte went over slides showing the property and its location.

Staff would like to leave the decision up to the Board to determine if a practical difficulty exists. If the Board wishes to grant this variance, staff would recommend the following conditions be met:

- 1.) Must add land to the property to bring the total acreage up to 3 acres before any building permit is issued.
- 2.) The property can never be subdivided to create two separate lots unless the property and driveway are platted.

- 3.) The applicant must secure a 66' wide easement/ownership over the existing driveway to meet current flag lot standards before any building permit is issued.
- 4.) The applicant must meet all other requirements and setbacks of the Polk County Zoning Ordinance.

Franks asked Gustafson if he is able to get the land to go to 3 acres? Gustafson said he has spoken with the landowner but didn't get a yes or no from him. Pulkrabek stated he sees no concerns with the request. Winkelmann said he would see no issues with getting to the 3 acres.

The Board had no further questions for Mr. Gustafson. Holte asked the board the hardship questions.

Question	Pulkrabek	Franks	Gagner	Wright	Winkelmann
1.	No	No	No	No	Yes
2.	No	Yes	Yes	Yes	Yes
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	No
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 26 No's and 9 Yes's the criteria has been met if the Board wishes to grant the variance.

The board asked Mr. Gustafson about the staff conditions. Gustafson said the owner would prefer not to sell the land to get the 3 acres (condition #1). Holte stated that in conversations with Mr. Gustafson, he never mentioned any issues in the acquiring of the land. Holte said that condition #3 is the most flexible, if you wish to remove any of them. Winkelmann said he would like to keep #1 in as he feels it is good for future plans.

Gagner said the 33' road is currently working, so he sees no reason to change it. Diedrich said it could create a problem in the future. The County Board set a rule for 66' roadways. Gustafson said that MN has so many rules compared to Nevada. It is like MN doesn't want to allow you to do anything.

Gagner asked if it was a burden to purchase the .7 acres? Gustafson said he doesn't want to. He can see if he can get it, but it is not feasible. He has purchased a new trailer, septic and now land. Holte again stated that over the 3 plus months he and Mr. Gustafson have been conversing, getting to the the three acres should not be a problem.

A motion was made by Pulkrabek to approve the Variance request without staff conditions. Second by Wright.

The Board then discussed the need for some of the conditions suggested by staff. Winkelmann said he feels that #2 and #4 should be placed on the Variance.

Pulkrabek then amended his motion to approve the Variance with staff conditions:

- 1.) The property can never be subdivided to create two separate lots unless the property and driveway are platted.
- 2.) The applicant must meet all other requirements and setbacks of the Polk County Zoning Ordinance.

Second by Wright. All in favor.

Public Hearing: Variance Jim & Jan Baune Parcel #30.0348.00

Winkelmann read the notice, waiving the reading of the full legal, and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to reduce the side yard setbacks from 10' to 6' for the construction of a 28' x 50' garage on their back lot on Maple Lake. PCZO requirements are found in Section 18.2212 (e).

The applicant's back lot is 200' deep by 20' wide for the first 100', and then it goes to 40' wide for the last 100' (6000 sq. ft. total). The applicant's front lot is 170' x 200' (34,000 sq. ft. total). The applicant received a passing septic compliance inspection in 2012. The applicant's stated practical difficulty is that if the ordinance is enforced, the building could only be twenty feet wide. This width is insufficient for storage and daily vehicle parking. A small building would not provide adequate width for standard size vehicles and trailers.

There is a drainage area just east of the property boundary and the back of the property is borderline wetland vegetation. The site might require some fill, drainage and potential erosion on the site would have to be taken into consideration. The property has been surveyed and the survey pins are present and viewable.

Katie Engelmann, East Polk SWCD commented that she feels the setbacks should be maintained to maximize erosion control. Loren Sanderson from the Red Lake Watershed District with no problems. Diane Rosenberg from MLID also commented that the MLID doesn't have any concerns.

Holte went over slides showing the property and its location.

Dennis Yell stated he lives two doors down and the property drains off very well, there should not be a problem. However brush dumped years ago is a small problem. The building won't obstruct the view like if it was closer to the lake. Baune said this is a high spot. He has also cleaned out brush so that drainage flows well.

Staff would like to leave the judgment of whether the variance for the garage should be approved to the

Board of Adjustment. The biggest question that staff would have is if a hardship/practical difficulty actually exists and if the garage needs to be that wide. If any variance is approved, staff would recommend the following conditions:

- 1.) A silt fence is placed along the rear and the east property line until vegetation is established to control erosion.
- 2.) Drainage from site is managed and controlled so it doesn't further affect the neighboring land owners.

Winkelmann asked if the Board has any questions. Gagner said that if we grant this variance to reduce the setback on both sides, you could not drive on either side. Would you consider going to 2' on one side and staying 10' on the other side to allow you the ability to drive around? Baune said that would not be a problem. Holte said you still have run off to manage and it is not fair to the neighbors who were notified of the reduction from 10' to 6' to make the change to 2'. Baune said he can put in a rear overhead door if needed, but he doesn't think he would ever need access to the back side with a vehicle.

Holte asked why 28' wide when you could go longer and narrower, and would you actually have daily parking on the a back lot? Baune said it will be daily parking once the house becomes a permanent dwelling. The garage on the front lot is a shop so no parking there.

The Board had no further questions for the Baune's. Holte asked the board the hardship questions.

Question	Pulkrabek	Franks	Gagner	Wright	Winkelmann
1.	Yes	Yes	Yes	Yes	Yes
2.	No	No	No	No	Yes
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	Yes
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 25 No's and 10 Yes's the criteria has been met if the Board wishes to grant the variance.

Pulkrabek made a motion to approve the Variance request with the following conditions:

- 1.) A silt fence is placed along the rear and the east property line until vegetation is established to control erosion.
- 2.) Drainage from site is managed and controlled so it doesn't further affect the neighboring land owners.

Second by Wright. Ayes – Pulkrabek, Franks, Gagner, Wright Naves – Winkelmann
Motion carries.

Public Hearing: Variance Jennifer Adams Parcel #30.00295.00

Winkelmann read the notice, waiving the reading of the full legal, and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to reduce the side yard setbacks from 10’ to 8.5’ on the south property line and to 6.5’ on the north property line for a 10’ x 20’ addition onto their house on Maple Lake.

PCZO requirements are found in Section 18.2212 (e). The applicant’s lot is approximately 35 feet wide and 170 feet deep. The structure is a non-conforming structure since it is within 50 feet of the OHW mark and within 10 feet from property lines. The applicant will not exceed 50% in structural alterations to a non-conforming structure. The applicant has submitted quotes and an estimate for construction.

The applicant has also submitted a passing septic compliance inspection on their holding tank. The applicant’s stated practical difficulty is that there is no way of doing an addition that small (10’ of neighbors). The original cabin is not within these guidelines.

No comments were received. Holte went over slides showing the property and its location. Staff recommends that if a practical difficulty is found and the variance is granted the following condition be placed on the variance:

- 1.) The applicant can’t improve the cabin over 50% of the assessed value and the cabin will remain a non-conforming structure.

Tim Bergstrom, father of applicant, said he is one of the neighbors and actually owns this lot. Yell asked if the addition will be the same width as the existing cabin? Bergstrom said yes. Holte said they are not getting any closer to the side property lines then the existing cabin and said cabin will still remain non-conforming.

The Board had no further questions for the Baune’s. Holte asked the board the hardship questions.

Question	Pulkrabek	Franks	Gagner	Wright	Winkelmann
1.	No	No	No	No	No
2.	No	No	No	No	No
3.	No	No	No	No	No
4.	Yes	Yes	No	No	Yes
5.	No	No	No	No	No

6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 32 No's and 3 Yes's the criteria has been met if the Board wishes to grant the variance.

Gagner made a motion to approve the Variance with the condition:

- 1.) The applicant can't improve the cabin over 50% of the assessed value and the cabin will remain a non-conforming structure.

Second by Pulkrabek. All in favor.

Public Hearing: Variance Carl & Glen Seeger Parcel #74.00408.00

Winkelmann read the notice, waiving the reading of the full legal, and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to reduce the lot size requirement for a recreational development lake in order to create two conforming independent parcels. PCZO requirements are found in Section 22.3100 and 18.2100.

The applicant's own a riparian parcel on Maple Lake that contains two dwellings. The property also includes a large back lot. The applicant's would like to split each house off and create two substandard lots. The total area of the current front lot is 225 feet wide and 185 feet long (41,625 sq. ft.) The front lots were combined in 1995, over 19 years ago.

The applicants are proposing to split the riparian part of the parcel so that two front lots are created around each dwelling. The proposed spit would leave one parcel with 115' wide and 185' long (21,275 sq. ft.). The other lot would be 110' wide and 185' long (20,350 sq. ft.). The ordinance requires 150' wide and 40,000 sq. ft. for a newly created lot on Maple Lake.

The intent of the applicant is to return the borders of the properties to the approximate size that existed prior to them being combined by their grandfather in 1995. The applicants stated practical difficulty is that they wish to separate the properties so that one may be sold and the other retained; one brother wished to get rid of the property and the other wished to keep one cabin. With the properties being joined, separate sale is not possible.

If the Variance is approved the applicants will be required to submit passing septic compliance inspections on all septic systems on the property. This would need to be submitted before any variance could be issued. If failing, the septic systems would need to be updated within 2 years.

Stephanie Klamm, MN DNR commented that the DNR recommends denial of the variance request. Neighbors Don and Cheryl Wadholm commented that they didn't have any problems with the request. Holte went over slides showing the property and its location.

Staff is recommending denial of the variance request for the following reasons:

- 1.) Staff feels that even though many lots on Maple Lake are smaller than this lot, the intent of the zoning ordinance is to make sure any newly created lot is 40,000 sq. ft. in order to help restore/preserve the shoreland areas. The proposed split would vary greatly from the ordinance requirements. Staff feels that this request varies too substantially from the intent of the zoning ordinance.
- 2.) Our office has records of talking/discussing splitting these lots from 2007, 2008, 2010 and 2014 with the owners/representatives. Through all of these conversations we have stated that they wouldn't be able to split the lots. Their only chance would be if they were granted a variance, and our office would recommend denial.
- 3.) The DNR has recommended denial of the variance request.

Staff recommends that the Board of Adjustment carefully think about their decision on this request and provide detailed answers to the hardship questions to support your findings as this might come up again in the future.

Glen Seeger said they tried to sell the property in the past, but it is large/costly and a sale didn't happen. My other brother lives 10 hours away working as pastor and wishes to sell, same as our father wished. I wish to keep the family heritage but cannot afford it all. There are two very different cabins on the property, one of which has been in the family for 70 years. My brother cannot afford the maintenance/upkeep. Glen would prefer to keep the larger house but needs the land to go back to the way it was. We want to take it back to its original borders. Currently it looks like two separate lots/structures and septic's, but under one ownership.

Glen stated that the impact on the lake is very little. The big house's septic is on the back lot and the smaller house is only used 3 months of the year. It seems reasonable to separate the lots. Finances are a driver, yes, but the main driver for wanting this is maintaining our family heritage, it has been in our family for 70 years. It is a huge burden each year to maintain the large property.

Gagner said if we grant this request, what happens to the back lot? Seeger said it would stay with the year round structure on the front lot. Gagner clarified that the only thing we are looking at today is the front lot split, correct? Holte said yes.

The Board had no further questions for Glen Seeger. Holte asked the board the hardship questions.

Question	Pulkrabek	Franks	Gagner	Wright	Winkelmann
1.	Yes	Yes	Yes	Yes	Yes
2.	No	No	No	No	Yes
3.	No	No	No	No	No
4.	Yes	Yes	No	Yes	Yes

5.	No	No	No	No	No
6.	Yes	Yes	Yes	Yes	Yes
7.	No	No	No	No	Yes

Holte stated with 19 No's and 16 Yes's the criteria has been met if the Board wishes to grant the variance Pulkrabek stated that based on the information from staff, DNR, SWCD he has issues with granting the variance request. Franks stated he agrees with Pulkrabek.

A motion was made by Winkelmann to deny the Variance request. Second by Wright. All in favor of denial.

Meeting was adjourned at 12:15 p.m..