Polk County
Board of Adjustment
May 27, 2016

Call to Order: 9:00 a.m.

Members in Attendance: Robert Franks, Donovan Wright, Mike Powers, Courtney Pulkrabek, and Rolland Gagner

Members Absent: none

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

Minutes: A motion was made by Pulkrabek to approve the minutes from the April 22, 2016 meeting. Second by Wright. All in favor.

Public Hearing: VARIANCE Matthew Trujillo Parcel# 12.00234.00

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

Holte stated that the applicants are requesting a variance to exceed 50% of the assessed value for an addition to an existing non-conforming structure located in Section 31 of Columbia Township. The existing house is within the 33' ROW setback.

Holte read the PCZO, Section 13.8433 and 8.1103 that pertained to the request.

Holte went over the pertinent facts and stated that the applicant's property is 30.53 acres. The road right-of-way is 33 feet off the center of 377th Ave. The existing house is located 31' from the center of the road. The applicant is requesting to construct a 28' x 28' addition to his house that would be located 76' from the center of the road. Since this is a non-conforming structure, the variance is needed to exceed the 50% value. The applicant recently was approved for a building permit to upgrade his septic system and build a 32' x 36' detached garage.

Holte said that the applicant stated his practical difficulty is that without the Variance he would

never be able to add much needed space to the home and that would also destroy any re-sale value that the property has.

Holte also added that the applicant stated that the home was built approximately 100 years ago when there were no setbacks. The home was non-compliant when the property was purchased and due to the terrain there are few options for buildings sites.

Holte said no comments have been received regarding the request. Holte then went over slides showing: the application, maps and pictures of the property. Staff is recommending approval of the variance due to the house existing prior to any zoning control and because the new addition will meet all setbacks.

Powers then asked if there were any questions from the audience or board members. Franks stated that it appears the landscape dictates where any building can occur. Gagner stated that it looks like he is maintaining the property and it is a minimally used road.

The Board had no other questions. Holte asked the board the hardship questions.

Question	Pulkrabek	Gagner	Franks	Wright	Powers
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 for the Board to either grant or deny the variance request.

Motion to approve the Variance request was made by Wright. Second by Gagner. All in favor.

Public Hearing: VARIANCE Total Trans Care Inc. Parcel# 45.00015.02

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

Holte stated that the applicants are requesting a variance to reduce the front yard setback off the right-of-way of County Road 35 to 35' in order to build a 35' x 75' structure in the Commercial Zoning District of Section 3 of Knute Township.

Holte read the PCZO, Section 15.4630 that pertains to the request.

Holte went over the pertinent facts and stated that the applicant's property is 5.67 acres. The road right-of-way is 33 feet off the centerline of County Road 35. The actual structure is located 68' from the center of County Road 35. The applicant is requesting a variance to 35 feet off the ROW to build the structure. The structure was actually constructed last fall as a temporary structure and we didn't require a permit as long as it was removed before May 15, 2016. The applicant now wished to keep the structure in the current location, which resulted in the need for the variance. The building was constructed over an existing railroad spur and is used for sandblasting railcars to clean cement out and off of them. Without this type of shelter they cannot work on windy or rainy days for safety reasons. The building is mounted on concrete blocks.

Holte said the applicant's stated practical difficulty is that they have no other location to place the building on the west side of County Road 35 that will work for railcar movement into the main shop.

Holte then went over slides showing: the application, building information sheet, maps and pictures of the property/building. Rich Sanders, Polk County Highway Enginner has no issues with the proposed plan.

Holte stated that staff recommends approval of the request.

Powers asked if anyone had any comments. Matt Johnson, representing the applicant John Tofsley, stated that the building allows them to have consistent work on RR cars and regular/permanent employment for those employees. Gagner asked if the dust was contained? Johnson said the majority of the dust is contained. However they do have doors open for light/air. For the most part, the dust stays by the building and PPE is worn and they have had no complaints.

Gagner asked if they have been using this building for a year? Johnson said since about last October till now.

Powers closed the public comments portion of the meeting. Since there were no other questions from the board Powers asked Holte to go over the questions.

The Board had no other questions. Holte asked the board the hardship questions.

Question	Pulkrabek	Gagner	Franks	Wright	Powers
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 for the Board to either grant or deny the variance request.

Motion was made by Franks to approve the variance request. Second by Gagner. All in favor.

Since we have a couple minutes before the next hearing Holte updated the board that there is, so far, one hearing for June. There could also be possible minor ordinance changes to review. The legislature passed some stuff that might require a few tweeks to the ordinance.

Powers stated that since there are more people present for the upcoming hearing that were not here earlier, he wanted to go over the rules/procedures for the hearing. He stated Holte will speak, then we will ask for testimony from the public, then we will close the open comment period and the Board members will discuss the variance.

Public Hearing: VARIANCE Daniel & Gayla Miller Parcel# 30.00359.00

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

Holte stated that the applicants are requesting a variance to reduce the setback off the ordinary high water line of Maple Lake from 100' to 35' for an after the fact deck addition located in the Shore land District is Section 14 of Godfrey Township.

Holte read the PCZO, Sections 8.3010, 18.2210 and 18.2211 that pertains to the request.

Holte went over the pertinent facts and stated that the applicant's property is 40,800 square feet. The front lot is 12,000 square feet and the back lot is 22,800 square feet in size and all considered one lot. The lot is 80' wide. The property was surveyed in 2014. PCPZ was notified of a possible zoning violation on the property and PCPZ conducted a site visit on 4/25/2016. PCPZ noticed the 8'x 16' covered deck under construction and issued a stop work order.

Holte said that the applicant's contacted PCPZ to discuss their options and applied for the after he fact variance. The applicant's received a variance in 2014 to build an addition onto their house with several conditions. Their 20'x 46' addition was permitted in 2014 and wasn't to encroach further on any existing setback boundaries. The existing house is 43' from the OHW of Maple Lake and the 2014 addition was proposed to be 44.5' from the OHW of Maple Lake and would meet the string test line. There was an attached deck that was removed as part of the 2014 variance that was only 32' from the OHW of Maple Lake. The existing house is 2' from the east property line and approximately 20' from the west property line.

Holte said that the applicants are upgrading their existing septic system as part of the 2014 variance. An at-grade system will be placed on the back lot. The applicant is under the 25% impervious coverage on their lot since they have a large backlot that is part of this parcel.

Holte stated that the following were the conditions placed on the 2014 Variance:

a. The deck on the front of the house must be removed by 10/3/2016. It has been removed.
b. The 5' x 10' shed and the 9' x 12.6' shed must be removed by 10/3/2016. Has been done.
c. The septic system must be upgrade by 10/3/2016. The tank is done and the drain field needs to be finished.
d. The applicant's will be limited to 25% impervious surface coverage on property unless applying for a separate variance.
e. Applicants must move the shed they intend to keep to meet all applicable zoning setbacks.

Holte said the applicant's added that they didn't think they needed a permit for the second floor deck since it is smaller in size than the ground floor deck and the outside edge of the deck was further back from the water edge than the ground floor deck. The applicants added that there is no feasible method to alleviate the need for a variance and that having a second floor exit that can be used by this deck in the event of a fire is important and necessary. They added that it doesn't obstruct neighbor's view of the lake.

Holte said that comments were received from:

a. Stephanie Klamm, DNR Area Hydrologist, submitted a letter and stated that the DNR recommends denial of the variance request since economic or personal preferences do not constitute a "practical difficulty". A complete copy of the letter will be read during the hearing and a copy is on file with the PCPZ office.
b. PCPZ received a letter from "Concerned Maple Lake Property Owners" – the complete letter will be read during the hearing.
c. PCPZ has yielded a couple calls inquiring about the proposed request, but has not received any other written comments prior to the hearing.
d. An email was received earlier today from Loren Abel. This will be read during the hearing.

Holte then went over slides showing the application, the DNR letter which was read to those in attendance, letter from "Concerned Maple Lake Property Owners" which was read, the email from Loren Abel was not a slide but was read to the group, 2014 variance resolution, 2014 application, maps, 2016 sketches and photos, and 2014 property photos.

Powers asked to look at the DNR letter which Holte gave him. Dennis Yell asked about the driveway which appears to be on the neighbor's property. Holte said it is right on the property line.

The well house/building was discussed as it is over 3' in height and sits in front of the string line test. Pulkrabek asked if the lot was 80' wide? Holte said yes and then Pulkrabek asked for clarification on the side setbacks. Holte said the house is 2' on one side and 20' approx. on the other side. Holte shared the 2014 pictures/slides, which showed the property lines.

Holte then stated that staff is recommending denial of the Variance for the following reasons:

a. The deck addition encroaches on the string test line of neighboring residential structures.
b. As a condition of the 2014 variance the original deck was to be removed in order to meet the string test. The applicants have replaced that deck with a patio that is under 36" in height and doesn't require a permit or meet the definition of a structure. They will be required to apply for a land alteration permit for the patio.
c. The deck addition encroaches further into the shore impact zone, than was permitted with the 2014 variance.
d. A deck isn't required by state building code for a second story egress. They would just need to have an egress window that meets sizing and height requirements.

Powers asked for any comments or questions.

Daniel Miller and wife Gayla Miller stated that they don't agree with the string test as it goes though the neighbors garage not the front of it. They didn't understand the need for the variance. They figured it would be fine as it doesn't block the neighbors view. The bedroom on the second floor is on the west side and the stairs are on the east side. The deck is for fire safety. As for water drainage it comes down where it wants and it runs toward the road.

Miller also stated that deck sticks out 4' over the edge of the old house and there are other houses similar distances to the lake, some farther back, but some are closer. As for the well house, it can be moved. Last winter the pipes froze so that was built to keep water flowing. We can lower the height of the structure. We have also complied with all other requirements.

Gagner asked if that was a patio door on the deck? Daniel Miller said yes, with windows on each side. Gagner stated that in 2014 your intentions were to do a deck? Daniel Miller stated they didn't give it a thought.

Pulkrabek asked if their contractor told them they should have a hand rail on the deck for safety, or on the stairs of the patio? D Miller said we can't have it as it would be over 36" in height. Wright asked what the height of the main structure was? D Miller said 22-24' not positive.

Powers asked if there were any other questions? Hearing none – he closed the public comment portion of the hearing. Then asked if the Board was ready for the Variance questions.

Dennis Yell asked to comment. He stated that the MLID is violently opposed to this request. This is the problem with narrow lots. If we let this one go through anything will go. He then asked who the contractor was? D Miller said Pro Contractors out of Park Rapids. Yell questioned the outbuildings and that looking at the sketch he is assuming no more construction? He stated he heard that a 3-season porch was possible. D Miller said no 3-season porch is planned. D Miller than submitted 3 photos to the group that Holte showed the Board members. These photos show 2 other lots and their structures that are closer to the lake than the Millers house.

Franks stated that boathouses are different. They are grandfathered in till they are beyond fixing. D Miller said our house should be grandfathered in as we built onto the existing house. He also said that the view for the neighbors is better than before as two trees blocked more than the deck does.

The Board had no other questions. Holte asked the board the hardship questions.

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1.	Yes	Yes	Yes	Yes	Yes
2.	Yes	Yes	Yes	Yes	Yes
3.	Yes	Yes	Yes	Yes	Yes
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 15 no's and 20 yes's the criteria has not been met for the Board to grant the variance request.

A motion was made by Franks to Deny the Variance request. Second by Wright. All in favor.

Holte stated that is all we have for the Board today if there are no other questions. Meeting adjourned.