

Polk County
Board of Adjustment
August 28, 2015

Call to Order: 9:20 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 & Jacob Snyder.

Minutes: A motion was made by Franks to approve the minutes from the June 26, 2015 meeting. Second by Wright. All in favor.

Public Hearing: Variance Daniel Gunter Parcel #32.00170.00

Gagner read the notice, with the full legal description and turned the meeting over to Holte.

Holte stated the applicant is requesting a variance to construct a 3,000 sq. ft. accessory structure on a riparian lot on Cable Lake. (The ordinance allows for an 800-1600 sq. ft. accessory structure depending on lot size). He added the applicant would also require a variance to exceed the height requirement of 15 feet. (Proposed building would have a height of 25')

Holte stated that zoning requirements found in PCZO 18.2225 F states: A CUP is required for one single story accessory structure over 800 sq.ft on a riparian parcel, or for the placement of an additional single-story accessory structure on any riparian parcel where the total combined square footage of both accessory structures will exceed 800sq.ft. No more than two single-story accessory structures shall be permitted on any parcel. The Conditional Use Permit will be subject to the following criteria:

1. Vegetative screening will be required between the Ordinary High Water Mark (OHW) and the one story accessory structure(s). Screening must be to the satisfaction of the Polk County Planning and Zoning Office.
2. The maximum height of the one-story accessory structure(s) will be 15 feet.
3. The accessory structure(s) must meet the setback requirement for structures as defined in Section 18.2211 of the Polk County Zoning Ordinance. The string-test rule will be prohibited for determining the setback from the OHW.

- The square footage of the riparian parcel will determine the maximum square footage or combined square footage of the one-story accessory structure(s). See chart below for maximum accessory structure square footage per riparian parcel square footage.

<u>Parcel size in sq. ft.</u>	<u>Max. acces. structure in sq.ft.</u>
0 – 20,000	800
20,000 – 30,000	1000
30,000 – 40,000	1200
40,000 and over	1600

- Any additional requirements or restrictions that are deemed necessary to preserve the character of the area and to meet the intent of the Polk County Zoning Ordinance may be placed as a condition of the CUP.

Holte went over the pertinent information that the applicant’s lot is 10 acres. (Approximately 3 acres is above the OHWL). Holte added that the applicant’s lot is located on a back bay of Cable Lake and the lot is separated from the main lake by a road. There are no other homes located on the bay and all of the land surrounding the bay is currently owned by the applicant. (190 acre parcel) Cable Lake is classified as a recreational development lake.

Holte stated that the applicant will need to submit a passing septic compliance inspection before any building permit will be issued. If failing a new septic design would need to be submitted before any permit is issued.

Holte stated that the applicant would like to construct a 50’ x 60’ (3,000 sq. ft.) storage shed. The shed would have 16’ sidewalls and the height to the peak would be 25’. The applicant currently has a small storage shed on the parcel in addition to his house. With the size of the applicant’s lot a 1600 sq. ft. shop/shed would have been allowable through a Conditional Use Permit process.

Holte stated that the proposed structure would be about 150’ from the OHWL of Cable Lake and would meet all other setbacks. The applicants’ stated practical difficulty is that they would have the expense of clearing more land and would be more than ¼ mile from the house if they could not build in this location. They would like this building to have more room to utilize in different projects.

Holte stated that Stephanie Klamm, DNR Area Hydrologist, stated that the DNR recommends denial of the variance request since the application doesn’t meet any of the three practical difficulty criteria. (The letter was read during the hearing and is on file with PCPZ.)

Holte went over slides showing the application, property maps, and property pictures.

Holte stated that the staff recommends to leave the decision up to the Board to determine if a practical difficulty exists to exceed the 1600 sq. ft. limit that would be allowable through a CUP.

Gagner asked if there were any questions.

Yell asked if the structure was to be one story or two stories. Gunter replied he needs 12' garage door and larger than 12' sidewalls to fit his tractor in the shed.

Gagner asked if the applicant lives at the property year-round. Gunter replied that someday he would like to live there year-round but currently does not. He added that he plans to retire out there someday.

Gagner asked if the structure could be built further away from the lake. Gunter replied that he needs the building to do his taxidermy and carpentry work. He could put it further to the north on a different parcel but then in the winter he would need to walk 300-400 yards away from his main house. He stated that is a long walk in the cold and to plow snow. He added that the structure is strictly for his hobbies as he does a little of everything from welding to taxidermy.

Gagner asked if the structure was to be heated and finished. Gunter replied the structure would have heat and be finished but wanted to frame it up before the winter months.

Powers asked about the string-test rule. Holte explained string test is when a property has neighbors on both sides the setbacks can be altered to that distance without a variance, but that the string test doesn't apply to accessory structures.

Gunter stated that if it made a difference he would add the ten acres to his 190 acres. Holte stated that the shoreland rules still would apply being it is within 300 feet from the waterbody.

Gunter stated that the bay is not accessible to other property owners and he owns all the land around it. Gagner added that no one else owns property around that bay and a township road cuts off the bay from Cable Lake.

Powers asked what type of machinery the applicant has, to need the increase size and height. Gunter stated tractors and two vehicles, with additional large hobby equipment.

Jore asked if he could place it to the north of the property line. Holte stated that he could build a 1600 sq ft structure on the parcel with a CUP but still would be only 15 feet in height without a variance.

Jore replied that there are still size limitations to the north of the property.

Pulkrabek asked if it is a lake or a wetland. Holte stated it is classified by DNR as Cable Lake a recreational development lake. Gunter replied that his dad hayed that bay many years ago.

Powers asked if Holte could show where 300 feet away from the lake would be. Holte went back to the pictures to estimate on the aerial photo where 300 feet would put the building.

Gagner asked if the building would be visible from the lake or road. Holte brought the picture back on the screen and showed the site pictures from lake and road.

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

Question	Pulkrabek	Powers	Franks	Wright	Gagner
1.	Yes	Yes	Yes	Yes	Yes
2.	No	Yes	Yes	Yes	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 21 no's and 14 yes's the criteria has been met for the Board to either grant or deny the variance request.

Motion was made by Pulkrabek to grant the variance request.

Gagner asked if there was a second to the motion. Gagner asked again, if there was a second to the motion. Gagner asked a third and final time, if there was a second to the motion.

Gagner stated that the motion failed due to a lack of second.

Holte stated that we need a vote to create a denial/approval resolution. Warren Strandell stated that the members cannot make a negative motion and that the request died due to a lack of second, and so no vote is necessary.

Gunter stated that he disagreed with the letter from the DNR stating that the runoff from the building would be a burden as on Maple Lake there are structures stacked on top of each other.

Holte again commented that we should have a motion one way or the other on the variance request. Gagner stated that a lack of a second can deny a variance.

Powers stated that he agreed with Strandell that we cannot make a negative motion so the motion died.

Holte asked the Board if they wanted to discuss the square footage that could be allowed in that area?

Gunter stated that if he would still be held to the 15 foot height restriction than he cannot use it as intended.

Powers stated that if the applicant would move it to meet the 300 feet from the shoreline than he could do bigger and the request would double the allowed limit through a conditional use permit.

Gagner asked how far the shoreland district extends out from the lake. Holte stated the shoreland district is 1000 feet from a protected water body.

Gunter asked what classifies a waterbody as a lake. Holte stated the DNR surveys and classifies waterbodies. Powers stated it is classified as a recreational development lake. Gagner replied this is the same classification as Maple, Union, and Sarah lakes.

Gunter stated the bay is not accessible by boat and is 300 feet across and 10 feet deep. He added that his father use to hay it.

Jore asked what makes a parcel non-riparian. Holte stated that if the parcel is not touching the lake, or separated by a road, such as a backlot or 300 feet away from the water body creating the shoreland district.

Gagner asked if there was any more discussion about the request.

10:05 a.m. Meeting was adjourned without formal action on the Gunter variance request.