

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of September 12, 2023

Variance Request 2023-005

Applicant: James & Susan Sackreiter

Legal Description: Lots 31 & portion of vacated Timberlane Point. Trotter-Cade

Address: 32601 Timberlane Point, Breezy Point MN 56472

Property Identification Number (PIN): 10030538

Zoning: Residential Medium Density R-2

Applicable Code: 153.007, 153.032, 153.044, 153.045, 153.120

Request:

Expand legal nonconforming use 8 ft. x 32 ft. addition to dwelling unit. 24 ft. from OHW.

Property:

The property is located on Timberlane Point (vacated portion) Access to property from shared driveway on adjacent 32635 Timberlane Point. This property and adjacent properties (east) is a narrow peninsula in Lake Ossawinnamakee. The property currently hosts a dwelling, two out buildings, driveway, and miscellaneous concrete ground cover. The existing dwelling is located within the 75 ft. setback and the NE corner of the dwelling is 25 ft. from OHW.

Because the dwelling is located within the 75 ft. setback from OHW the dwelling is considered Legal Non-conforming use.

The applicant is seeking variance to expand existing dwelling (legal non-conforming use) with addition 8' x 32' on East wall of dwelling NE corner of proposed addition 24 ft. +- from OHW.

The existing impervious coverage of the original Lot 31 is 31.24%

VARIANCE. A legally permitted deviation as provided in M.S. § 462.357, Subd 6, as it may be amended from time to time, from the provision of this chapter as deemed necessary by the Board of Adjustment when the strict interpretation of the ordinance would create practical difficulty and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance. Variances cannot create a land use not permitted in a zone.

Variance Review:

- Variance Review §153.120 E 1-5
- (E) Variances shall be decided within a reasonable time with considerations for the

following:

- (1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;
- (2) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;
- (3) The land use created by the variance is permitted in the zoning district where the property is located;
- (4) The variance will not alter the essential character of the locality; and
- (5) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.

Findings:

- 1) The applicant contends that the practical difficulty is _____
- 2) The property is part of a 1961 Plat.
- 3) The use is consistent with character of surrounding Neighborhood.
- 4) Impervious coverage is proposed to be 32.44%.
- 5) _____

The following finding of fact may be used to support denial of the Variance request.

- 1) The property preexists subdivision and zoning regulations.
- 2) The impervious Coverage does exceed 25% (31.24%)
- 3) The proposed expansions does encroach OHW more than the existing dwelling.
- 4) Proposed impervious coverage 32.44%

The following may be used to support Approval of the of the Variance request.

- 1) The subdivision was created prior to zoning and subdivision regulations. (1961)
- 2) The Request is inharmony with general purpose and intent of official controls and consistent with comprehensive plan.
- 3) The property owner is proposing to use the property in a reasonable manner.
- 4) The plight of the owner is due to circumstances unique to the property not created by the owner.
- 5) The Variance of granted will not alter the essential character of the locality.
- 6) The practical difficulty is _____.
- 7) If approved the following may be conditions of approval:
 - a) Minimum elevation of lowest floor 1210
 - b) Maximum impervious coverage ?
 - c) Develop surface water retention and management plan.
 - d) Other.

Planning Commission/Board of Review Direction

The Board may by resolution choose to approve, deny, or modify the requested variance. The resolution should clearly state the practical difficulty and reasons for approval, denial, or modification of the variance.