

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of July 12, 2023

Variance Request 2023-004

Applicant: Joseph Matrinson

Legal Description: Lot 3 Block 1 Breezy Point Club

Address: 29700 Lakeshore Drive, Breezy Point MN 56472

Property Identification Number (PIN): 10211222

Zoning: Medium Density Residential (R-2 Sewered)

Applicable Code: 153.007, 153.132, 153.044, 153.045, 153.120

Request:

Construct Dwelling 268 sq. ft. Deck Addition to existing dwelling. (legal nonconforming use)

Property:

The property is Pelican Lake shore located at 29700 Lakeshore Drive. Property is 10,124 sq. ft. served by municipal sewer. Current impervious coveragae is 3909 sq. ft. 38.6%. existing Dwelling is 1014 sq. ft. built prior to zoning.

The Dwelling is considered a legal nonconforming structure because it is located less than 10 ft. (.5 - .8ft.) from property line.

Zoning:

The property is currently Zoned Residential Medium Density (R-2 sewered).

Setbacks per zoning ordinance:

- Lot Size 20, 000
- Ordinary High Water (OHW) 50 feet
- Setback side 10 feet
- Impervious coverage 25 %
- Height 25 feet

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) Existing impervious coverage is 38.6%
- 3) The proposed structure deck is located within setbacks and building envelope.
- 4) The use is consistent with the Residential use in the area.
- 5) The City Attorney has advised that expansion of a nonconforming use is allowed under state law, provided the variance meets the "practical difficulty" test under Minnesota Stat. Section 462.357 Sub. 6 (2)
- 6) The existing impervious coverage exceeds 25%

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

The Planning Commission / Board of Adjustment finds that no practical difficulty exists. The existing impervious coverage exceeds 25% (38.6%). The addition would render impervious coverage of 41.2%.

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

- 1) The property preexists Zing rules.
- 2) The Practical Difficulty is _____.
- 3) Measures will be taken to reduce impervious coverage.
- 4) Proposed deck complies with setbacks.

If approved the following may be conditions of approval:

- 1) Deck addition to be within building envelope.
- 2) Area under deck to be excavated and filled with granular material that renders the area pervious.
- 3) Eliminate pavers
- 4) Impervious coverage not to exceed 32%.
- 5) Install rain gardens to catch and purify run off.

6) Other.

Planning Commission/Board of Review Direction

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