

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of July 12, 2023

Variance Request 2023-003

Applicant: Dettinger Trust / Chris Erickson

Legal Description: Lots 20 & 22 Edgewater Beach

Address: 29206 Piney Way, Breezy Point MN 56472

Property Identification Number (PIN): 10211067 & 10211068

Zoning: Residential Medium Density (R-2 Sewered)

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

Request:

Construct 276 sq. ft. attached screen porch to existing dwelling (legal nonconforming use)

Property:

The property is Pelican Lake Shore at 29206 Piney Way. Property is 29,842 sq. ft. 20.9 % impervious Coverage. Existing dwelling is approximately 2,000 sw. ft. +- built prior to Zoning. 2.7 ft. from South property line.

Variance to enlarge pre-existing nonconforming structure by increasing the height and adding a chimney was approved in 1995.

The dwelling is considered a legal nonconforming structure because it is less than 10 ft. (2.7 ft.) from the south property line.

Zoning:

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

- 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) Impervious Coverage is proposed to be +- 21.8%
- 3) The proposed addition is located within building envelope.
- 4) The use is consistent with 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 difficulties" test under Minnesota State Section 462.357, Sub. 6(2)

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

The Planning Commission / Board of Adjustment finds that no practical difficulty exists. A detached screen structure could be constructed within building envelope.

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

- 1) The property preexists subdivision and zoning regulations.
- 2) The impervious Coverage does not exceed 25%
- 3) The practical difficulty is _____
- 4) If approved the following may be conditions of approval:
 - a) Minimum elevation of lowest floor 1210
 - b) Building permit to be obtained and comply with applicable codes.
 - c) Consolidate Lots 20 & 21 Edgewater Beach

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.