

Wabedo Township Planning Commission

Craig Anderson, Chair
November 8, 2012

To: Paul Fairbanks
Cass County, Minnesota

Re: Steven Freiburger
2578 Dianne St.
N St. Paul, MN 55109

Variance Request-Legal Description

ELY 220 FT OF WLY 660 FT OF GOV LOT 5 – Section 11-140-28 PID #46-011-2103 –
Wabedo Township.

Request:

An application submitted for replacement of an existing 964 sq ft A Frame cabin with a new 1872 sq ft residence with a 30 ft. setback. The residence is non-conforming because it is located 30 feet from Little Boy Lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains 9.24 acres riparian to Little Boy Lake (RD).

Facts:

1. Property became lot of record in 1961.
2. Total 9.24 acres, lot width 220 ft, water frontage 260 feet, lot depth 1958 feet.
3. According to information from Cass County, Septic install date not available. Last inspection was 7/16/2008.
4. Property is located at 1705 Birch Lane NE, riparian to Little Boy Lake.

Site Findings:

1. No trees would have to be removed.
2. The well will be relocated north of the new house.
3. The mound system is to be expanded and is located on the southeast side.
4. The original building date is unknown, estimated 1977.
5. A wetland area exists about 25-30 feet behind the current house.
6. The shed will be removed during construction.
7. Current beach area has a 6 ft ice ridge.

Regulatory Standards:

1. Little Boy Lake is a Recreational Development Lake (RD) with a setback of 100'. This comes from Cass County (CC) Land Use Ordinance 1126.1 page 89 and Wabedo Township Comprehensive Plan (WTCP) Land Use Compatibility page 11. The proposed new home construction does not meet setback requirements.

2. Cass County Land Use Ordinance 1115.3 B page 59 allows the expansion of a non-conforming residence only by variance.
3. Shoreline buffers are covered under Cass County Land Use Ordinance 1123 A-B on page 81.
- Wabedo Township follows Cass County guidelines.

Findings of Fact:

Cass County Land Use Ordinance 801.3 Findings of Fact states:

- a. "The property in question cannot be put to reasonable use if used under conditions allowed by the official controls."
- b. "The plight of the landowner is due to circumstances unique to the property not created by the landowner."
- c. "The variance, if granted, will not alter essential character of the locality."
- d. "The need for the variance is not justified by economic considerations alone."
- e. "There is a complying individual sewage treatment system present for the intended use of the property."

Responses to above Findings of Fact Questions:

- a) Wabedo Township believes the property can be reasonably used without this variance since it has been reasonably used for many years.
- b) The property contains wetland near the building site, which limits the available setback.
- c) Wabedo Township thinks that granting this variance will not alter the essential character of the neighborhood.
- d) Wabedo Township believes there are no economic factors.
- e) Owner intends to expand and upgrade the current mound system last inspected July 16, 2008.

Other Applicable Criteria:

- a) Is the requested variance a substantial variation from the Ordinance requirements? (the magnitude of the variation from the Ordinance should be considered)
- b) Will the variance have an adverse effect on governmental services?
- c) Will this variance request cause a substantial change in the character of the neighborhood or will result in a substantial detriment to neighboring properties? (impacts to the neighborhood, including economic should be considered)
- d) Is there another feasible method to alleviate the need for a variance? (economic considerations play a role in the analysis of this factor)
- e) Did the landowner create the need for a variance? (how the need for the variance occurred should be considered)
- f) In light of all the above factors, which answer would better serve the interests of justice: granting the variance or denying the variance?

Responses to above criteria:

- a). Yes
- b). No
- c). No
- d). No

- e). Yes. Landowner wishes to build a larger home approximately doubling the current footprint. It may be possible to adjust the architectural plan to reduce the size of footprint and increase the setback.
- f). We believe that justice would be better served by denying this variance.

Summary of Findings of Fact Section:

Historically, Wabedo Township has not been in favor of extensive expansion of non-conforming building footprints so close to the water. We encourage the landowners to seek a conforming building site, or alter the building plans to meet the current county and state guidelines.

Recommendations:

Wabedo Township recommends that this variance should be denied.

Wabedo Township Planning Commission Site Visitors:
November 7, 2012, Sue Gehrman, Tom Lund, Craig Anderson

Craig Anderson, Wabedo Township Planning Commission Chair