

Wabedo Township Planning Commission

Craig Anderson, Chair

July 9, 2015

To: Paul Fairbanks
Cass County, Minnesota

Re: Sharon Windebank
617 Woodhaven Dr NE
Rochester, MN 55906

Variance Request-Legal Description

Part of Govt Lot 5, Section: 26-140-28-PID# 46-026-3105
Wabedo Township.

Request:

An application submitted to expand an existing non-conforming residence with a 12 feet x 14 feet addition. The residence is non-conforming because it is located less than 30 feet from the top of a bluff. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 which requires structures to be set back 30 feet from the top of a bluff. The parcel contains .78 acre riparian to Wabedo Lake (RD).

Facts:

1. Property became lot of record Aug. 17, 1971.
2. Total .78 acre, lot width 74 ft, water frontage 100 ft, lot depth 269 and 336 feet, lake setback 100 ft.
3. The septic system was installed in 1992. The date of the last inspection was 6-8-15.
4. Property is located at 2991 Stoney Creek Rd NE, on Wabedo Lake.
5. Setback from the lake is not a problem.

Site Findings:

1. The cabin and the proposed addition are on relatively flat land.
2. No trees would have to be removed.
3. There are numerous trees growing on the bluff area down to the lakeshore.
4. There is level ground at the lake level with vegetation.
5. The current owner took possession of the property in 2005.
6. The proposed small addition will expand an existing 12x12 ft. deck less than a foot toward the bluff and lake.

Regulatory Standards:

1. Cass County Land Use Ordinance (02-15-13) Section 1126.1 requires a setback of 30 feet from the top or toe of a bluff.

2. Section 800 establishes the variance review criteria.

Findings of Fact (Questions that have to be answered)

1. Is the proposed variance in harmony with the general purposes and intent of the Land Use Ordinance?
2. Is the proposed variance consistent with the Cass County comprehensive plan?
3. Does the property owner propose to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan?
4. Do practical difficulties exist in complying with the ordinance because of circumstances unique to the property? The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.
5. Does the proposed variance alter the essential character of the locality or will it be injurious to the use or enjoyment of other property in the vicinity? If granted, the proposed variance will not be detrimental to the health, safety or welfare of the general public or of those utilizing the property or nearby properties.
6. Is the proposed variance consistent with the Wabedo Township Comprehensive Plan?

Responses to above Findings of Fact Questions:

1. Wabedo Township believes the proposed plans are in harmony with the general purposes and intent of the Land Use Ordinance.
2. The proposed variance appears to be consistent with the Cass County Comprehensive Plan.
3. Yes. The proposed replacement deck will be much better and safer than the current deck.
4. Yes. The cabin is closer than 30 ft. from the top of the bluff.
5. No. The proposed variance will be in harmony with the locality, and will be safer and more efficient.
6. The proposed variance is consistent with the Wabedo Township Comprehensive Plan.

Summary of Findings of Fact Section:

The owner wishes to replace the existing deck which has several steps reducing the useable size and presenting potential safety hazards. Most of the expansion will not be toward the lake or the bluff.

Recommendations:

Wabedo Township recommends that this variance should be granted.

Wabedo Township Planning Commission Site Visitors:
July 6, 2015, Craig Anderson, Tom Lund

Craig Anderson, Wabedo Township Planning Commission Chair