

LAKE COUNTY BOARD of ADJUSTMENT
October 10, 2007
Meeting Minutes

MEMBERS PRESENT: Lucille Buchmann, Jack Meuli, James McKee, Sue Laverty, Clarence Brazil

STAFF PRESENT: Sue Shannon, Joel Nelson, Lita Fonda

Lucille Buchmann called the meeting to order at 4 pm.

Motion by Jack Meuli, and seconded by Sue Laverty, to approve the September 12, 2007 meeting minutes as written. Vote unanimous to approve minutes.

Sue Shannon noted that the Reid Conditional Use request had been withdrawn.

GUMPert CONDITIONAL USE REQUEST

Sue Shannon presented the staff report. She noted that additional information demonstrating compliance to the floodplain regulations and the height was received after the staff report was issued. She described what the pictures showed.

Lucille asked about the structure in the pictures. Sue S replied that this is the garage, with a lean-to on the side that they're enclosing. They did not need a permit to enclose that portion of the structure. Lucille asked where the new house would be, in relation of the pictures. Sue S said it would be in front of the garage, and confirmed this was where they had taken out trees.

Sue Laverty asked if there was ample setback from high water. Sue S confirmed—it's about 50' from high water mark of 3069', and pointed out locations on the site map.

Clarence asked if someone checks the health of the trees when an applicant asks to remove trees alleged to be diseased. Sue S replied that she did not; the trees had a bushy look from mistletoe. The applicants reported that an arborist told them the trees were diseased and should be removed. She did not ask them for something formal in writing. Clarence noted that sometimes just the mistletoe could be removed.

Sue L said the last letter addresses the difference with high water mark. She asked about the standards used. Sue S explained that the definition of high water mark is the average of the highest lake level of the last 5 years. This is what she used. It's also what was used when the Cantrells were permitted. Lucille pointed out this doesn't take into account years with drought or without much snow. Sue S explained that this is the definition in the lakeshore protection regulations.

Steven Gumpert spoke on behalf of his application. Their intention was to build this house when they originally started to build. The main house had one bedroom, since they felt it was easier to have a guest house for guests. At the time, there were no zoning regulations. It is their intention to live on the property and have family and friends visit. He asked for approval of the

conditional use permit. They intend to meet the requirements set forth in the conditions of approval.

Sue L asked about the discrepancy in high water mark. The County is using 3069'. 3071.1' doesn't seem to be a large issue, but it is. Would it work to move the house back further? Steven explained that it creates problems. The elevation change is modest. The water has never gotten past 3070'. They are 50' back from 3069'. He feels comfortable that they won't have water problems. It creates a hardship to go to 3071'.

Further public comment. None offered. *Public comment closed.*

Motion by James McKee, and seconded by Jack Meuli, to approve the conditional use request with the conditions stated in the staff report. Motion carried unanimously.

SMITH VARIANCE

Sue Shannon presented the staff report. She showed pictures of the property, taken today. She shared two additional letters with the Board, which were received after the staff report was written.

Clarence asked if the house interior is currently in a livable condition. Jay Gallatin, representing the applicant, said no. Sue L asked if they were adding on to the building as well, based on the drawings, which was affirmed. Sue S said most of the additions are in the rear of the structure. The pictures were intended to show how close the structure is to Skidoo Lane so the Board can visualize what it would be like.

Lucille asked if the dotted lines represented the present building and garage. She asked if another plan was the roof plan. Sue S thought it was foundation of the existing structure, and a plan shows the eaves. Sue L pointed this out further on a map. James said the site plan shows everything lands within, and is based on foundation. He confirmed with Sue that she was concerned about the south side/southeast going into the setback. He asked what the eaves on the other side were. The contents and intended uses of the addition were discussed. Jay said the intended eave overhang would be 2' on the addition. The existing structure is a gambrel roof with a 1-foot overhang. Sue S noted that some of the overhangs on the drawings measured to 4'. Jay said that they were not accurate. He affirmed that she was going to get a new set of plans.

Jay spoke on behalf of the applicant. In the staff report, for section 3 of paragraph 3, he said the proposed front deck would extend an additional 12 feet, rather than 16 feet. It encroaches 23 feet from the county roadway rather than 19 feet. On the other corner, it's 25' rather than 21'. Regarding the caveat in #5 concerning the county road right-of-way, the residents of Jennings Orchard Tracts and Skidoo Lane area have maintained their own road. They've paid to pave it, to reseal it, and to have it snowplowed. The County has never maintained it. The applicant's feeling was that it should be within the confines of the ordinances to meet the 20' setback because it was never known as a County road. It is an undeded right-of-way, as Sue S has indicated here. If it was considered as a non-county road, which in all aspects it is, because it is not maintained by the County, they would meet the 20' setback of a non-county road.

The extension of the pergola area and front porch cover to the east would come out from the house 11'. Jay had additional pictures to show the Board. The structure was built in the early '80's. He said that contrary to what was heard earlier, there is a well on the site from the early '80's, although it's never been hooked up. There was a septic drainfield installed. He had copies of the 1979 permit pulled by Doug Crockett. The site diagram shows the septic tank and drainfield locations. They would not be able to utilize that, since they would need to bring the sewer and water up to County specs, which would not allow them to use a gravity flow system. By putting a deck on the rear of the structure, they would need to move the septic tank outside of that deck line. They intend to comply with these features. They have an application in for a new septic permit, but they have not received information yet.

He added that the structure is only framed. It has been sided and roofed, and has doors and windows. The applicant's intent is to put on new siding and replace the doors and windows with something new, and go to a metal roof rather than cedar shake roof. For #6, it is their intent to comply with these things. They will conform to what the regulations are.

Sue S asked about the deck measurement of 12' versus 16', which she measured from the plan. Jay replied that the front is not the deck; it's one board. That can be seen from the roof plan. That's one piece of the pergola truss area. The rest is only 12'. The lattice line referred to goes straight up.

James asked Jay to address the eaves and the 10' setback. Jay responded that they would not encroach on the 10' setback. James clarified that he's looking at the site plan on the screened porch, which is based on the foundation. The eaves can't encroach either. Jay said they can take into account that they need to shrink that up to get it over. The architect was going by a Carstens survey. When they actually stake it out and build it, it's going to comply.

Further public comment.

Charles A: He lives on Skidoo Lane, and was the president of the Homeowners Association when they went after a Special Improvement District in 1994 to pave the lane. It was paid for by the residents of Skidoo Lane, and is essentially a one-lane road. The road is a separate tax item that they pay to the County, so he didn't understand how it could be a County road. He favors the proposed project and thinks it will be a great improvement. The structure has been sitting there for years. It was unfinished by prior owners due to illness.

Steve Schiefelbein: They live to the east, and would be the most impacted residents. The structure has been sitting dormant since the early '80's. It would be good to see this have some usage and be dressed up, much like what's proposed. He and his wife will see an entrance on the east side. The traffic will be adjacent to their property. They have no objection to that and would like to see the project go ahead, but the objection that they have pertains to the 50' setback from a County road. The County has used 50' up to this point. They think it's unconscionable that if the building is 17' off in violation of that setback in one corner and a variance is allowed for the deck area, that pushes it out towards the street. The non-conformity is doubled. Posing a structure with a deck and outside activities, plus a latticework containing activities, and putting this right on the lane will promote or give some kind of urban environment that is not conducive

to the nostalgic-ness that has been out on the lane. He referred to suggestions in the letter than he and his wife had submitted, such as a covered entry instead of a deck, rather than a living or recreation area right on the road. This will be only 19 or 20' from the road. The other houses have nice shrubbery and setbacks. Their concern is that with a variance like this, where an existing non-conformity is doubled, what's going to happen the next time someone wants something like this or when developers come in? They'd have a different type of flavor from what's there now. He and his wife would like to see a compromise because they would like to see the project cleaned up, so to speak, but he thought there needed to be some consideration for the future of Skidoo Lane, and precedents would be set.

Tom Doherty: He's opposed only on the basis of the setback. It's between 50% and 60% in violation of the 50' setback. He found this to be excessive. He thought that was enough of a reason to consider denying the petition.

Charles A: He didn't believe Skidoo Lane is a County road. If so, why do they pay taxes on it, and why is it a one-way road? Covenants of Skidoo Lane are restrictive and he thought that would avoid problems like row houses. There are small lots and cabins to the west. The lane is very pleasant to live on. The structure there has been there for years, and he sees this as an improvement. He doesn't understand why people would object to the deck. He thought the existing sliding glass doors showed an intent to add a deck there originally.

Jay: The expected use of the front deck is right off of the kitchen. It's intended for barbeque and occasional time there. The Smiths currently live in Massachusetts. This is a summer residence. The original intent was to have a deck across there. The space below the deck is intended to be left as natural. It's not intended for patio area or extended living space at this time.

Joann Christiansen: She lives across the road. As far as it being a County road, the County does not plow or feel responsible for it. As far as the house's proximity to the lane, they don't have that much traffic. She can't see the problems. They have a very strict code of rules about building new properties. She didn't think it would change the ambiance of Skidoo Lane one iota to put a deck on a house that's been there since 1980. It's going to look much better.

Tom Doherty: He thought talking about the road district was off the mark. The subject is the variance, which will create a new setback that's going to allow for the property to extend 20' from the road. 25' is 50% of the present 50' setback. He didn't want to see a new setback of 25' on Skidoo Lane. He didn't want to see a new footprint that would set a precedent.

Steve Schiefelbein: His notice went to a Nevada address and got back on Friday. The line of communication for other people to have input on this has been poor as far as timing at this time of year. Had this been brought up at the summer meeting or had it been between June and September, there would be more people here who would not want to see this variance. It's a pleasurable place to live. His idea of preserving that is not to have a structure within 20' of the road.

Clarence: He asked if the house has plumbing now.

Jay: There's rough plumbing, only in the concrete. There's no wiring and no plumbing in the walls in terms of drainpipes or copper.

Clarence: So interior walls could be easily moved.

Jay: There are walls in the basement that he's going to move to go with the new floor plan. He's keeping the shell. There are not framed walls on the main floor yet.

Clarence: The floor plan could easily be changed.

Jay: The floor plan inside the home doesn't really have a bearing.

Clarence: It could have a bearing on where the deck was used. If the deck is off the kitchen, the kitchen and back bedroom or something could be changed.

Jay: There's a guest bedroom over the garage facing the street. The kitchen is adjacent to that, and then the dining room and then the stairway. One of things that would impede some of the construction is the foundation has a 2' concrete stem wall except for the side facing Skidoo Lane. You'd have to excavate dirt because of the 2' stem wall.

Public comment closed.

Clarence recalled that a big stumbling block when developing the Finley Point zoning was stuff that was non-conforming. The idea was to phase the non-conforming things out. He didn't know if a non-conformity should be increased. James said the County didn't own the road. Clarence pointed out that the County doesn't own a lot of roads. James asked how a setback to a county road could be enforced if it wasn't a county road, although he didn't want to see it closer to the road either, other than past practice. Sue said that in the past, 50' has been required on that roadway. It's very unclear who owns the roadway. The Jennings Orchard Tract unrecorded plat has no language regarding dedication. She hadn't looked into the taxation and just found out today that they're paying taxes on it. It's very unclear. In the past for other properties, the 50' setback has been required. James asked if there was a legal basis for doing this. Sue replied that typically if there is a platted roadway that isn't owned, it just reverts to County or Tribal ownership. Unless they want it abandoned, it doesn't go to the owners. There are many county roads with dedication that the County does not maintain. With limited resources they choose to maintain the ones that are heavily traveled. It's just unclear. It would probably take a lot of title searching to figure out who exactly owns that road. Jack thought if the County owned it, the people would force the County to maintain it.

Sue L saw that if historically this is the way that the County has looked at it for setbacks for the properties, even by addressing this or giving them the variance, it opens it up for other properties that were probably denied. If it's a shell of a building, the project is basically new. It should conform to what has been historically used as a setback requirement. She didn't see a hardship because someone can't sit on a deck. Clarence thought the deck would be better off in the back where the traffic going by doesn't see them. James said they would sit on the back deck; this deck was off the kitchen. Sue L said that according to the letter the applicants had written, this

was not the case, and elaborated from the letter. Clarence didn't think the non-conformity should be increased. Lucille asked if the building could be moved back. Jay said not without tearing it down. Sue S mentioned that the discussion isn't to move the building back. Lucille noted that it's the improvements that are being talked about. Clarence said the improvements could be put on the back by changing the floor plan. Sue L pointed out that there are plenty of properties with upstairs slider doors for many reasons, such as fire exits, or they happen to get them for a real cheap price. Clarence mentioned that the doors, windows and siding are going to be replaced. Sue L added that the roof is also being replaced.

Jack didn't see a problem. He thought the variance was all right. Jay asked if the Board decides against the deck, and the only front door is on the side, which is also within the 50' setback, is some sort of weather cover over the front entryway going to be allowed. The NW corner is still 13' away from conformance to the front edge of the door. James didn't think building a weather shelter on the side would increase the level of non-conformity. Sue S said this was viewed by staff as increasing a non-conformity. There are two variances here. Some discussion followed. Sue S noted you don't want to enter a home from the back. You do want a front door close to where you'd be parking. James said you do want some sort of shelter over the door.

Motion by James McKee, and seconded by Clarence Brazil, to deny the variance for the deck and pergola, and grant the variance for the shed roof over the front door, as drawn on the roof plan. Motion carried, all in favor.

OTHER BUSINESS:

Lucille directed attention to the Barone conditional use extension. Joel explained that typically a deadline of 6 months from the date of approval is given to meet the conditions for the issuance of a permit. They are asking for an extension. He would suggest the length be for another 6 months. James asked if they were basically done and just needed the documentation from PBS&J. Joel said he did have a copy of the wetland delineation from PBS&J. He hasn't reviewed it. It looks like they're getting close. There are a few conditions left, like the cross-sections regarding building height, and the stormwater plans aren't adequate. They haven't demonstrated that the structure will be elevated 2' above the high water line in the floodplain. It's approximately one foot above the floodplain at 2893'. They'd like an extension so they can meet the conditions. The applicants didn't address the timeline of the extension, but he thought 6 months would be reasonable. Joel said this conditional use was for a guesthouse exceeding 1000 square feet, where a larger house was being built. Sue mentioned it was the one with the garage doors on the lakeside.

Motion by James McKee, and seconded by Jack Meuli, to grant a 6-month extension to the Barone conditional use permit FP 07-03. Motion carried, all in favor.

Sue S asked if Board members were planning on attending the lakes conference.

Lucille announced that she would not be able to take another term.

Meeting adjourned by mutual consent at 5:12 pm.