

Applicant

Paul Young
1585 Sharon Drive
North Mankato, MN 56003

Request and Location

The applicant is requesting a variance to reduce the side yard, bluff and ordinary high water mark (OHM) setbacks for the purpose of replacing an existing storage area and expanding the bathroom facilities of an existing cabin. The property is zoned Rural Townsite and Shoreland and is located in the NW ¼ of the NE ¼ of Section 27, Jamestown Township.

Legal Description

Unit 602, Common Interest Community No. 19, a Planned Community, Doran’s Estates.
Township 109 North, Range 25 West.

Zoning

The property is zoned Rural Townsite and Shoreland.

General Site Description, Site History, and Land Use Information

The property includes a seasonal cabin owned by the applicant. The cabin is currently within the required side yard, bluff and ordinary high water mark setback requirements. The applicant intends to replace the existing 7 foot by 12 foot attached storage structure. State Statute allows for the replacement of such a non-conforming structure. However, such action does require a construction permit and a septic compliance review. The applicant is proposing to expand the bathroom facilities. This area of construction, if approved, will take place immediately north of the existing storage. Once completed, the replacement storage structure and additional bathroom area will measure seven feet by 21 feet.

	Required Setback	Existing and Proposed Setbacks
Side Yard	10 Feet	2 Feet
Bluff	30 Feet	9 Feet
OHM	75 Feet	45 Feet

Existing Land Use within 1/4 Mile

- North:** Doran Drive (a Township road) and crop land
- South:** Duck Lake
- East:** Numerous seasonal cabins and the City Limits of Madison Lake
- West:** Numerous seasonal cabins

Access No change in access points is proposed.

Surface Hydrology

The site leading up to the bluff is fairly flat but has a grade leading to the bluff. The property is not located in Floodplain.

Township Review - At the time this report was created no comment had been received from the Township.

City of Madison Lake Review – In an email dated 5-13-2010, the City Administrator indicated no concern with the request.

Environmental Health Review - See Attachment A-3

Applicable Sections of the County Land Use Ordinance

Sec. 24-193. Height, yard, lot area, width, depth and coverage.

(c) *Side yard regulations.* There shall be a side yard having a width of not less than 10 feet on each side of the main building in the RT district. One additional foot of side yard is required for each dwelling unit exceeding three units.

Sec. 14-82 (d) (3) e. 3. Requires a 30 foot setback to the top of a bluff.

Sec. 14-82 (d) (3) e. 2. Requires a 75 foot setback to the ordinary high water mark for unsewered structures.

Sec. 24-47. Board of adjustment.

(d) *Powers and appeals.*

(1) *Powers.* The board of adjustment shall have power to grant a variance to any of the provisions of this chapter to the extent of the following and no further:

a. To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this chapter.

(e) *Findings required.* The board of adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the board of adjustment may require:

(1) That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.

(2) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Minnesota Statute 394.36 Subd. 4. Nonconformities; certain classes of property.

This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.

Applicant's Statement of Hardship

The existing bathroom facility is very small and has structural issues. Therefore, with the replacement of the existing storage they are asking for a variance to reduce the setback requirements as listed above enabling the construction of a bathroom addition.

Opinions

Staff has developed the following opinions:

1. Due to the layout of the home staff believes that it is a reasonable request for a bathroom addition. To increase the size of the bathroom within the existing confines of the home appears to be a hardship.
2. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Recommendations

Staff recommends **approval** of the request to reduce the required side yard setback from ten feet to two feet, and to reduce the setback requirement to a bluff from 30 feet to nine feet, and to reduce the setback requirement to the OHM from 75 feet to 45 for the purpose of constructing a bathroom addition and replacing an existing attached storage structure, contingent upon the following conditions:

1. That the applicants obtain a construction permit prior to the commencement of construction.
2. Upon availability of sanitary sewer, a connection must be made and the holding tank legally abandoned.

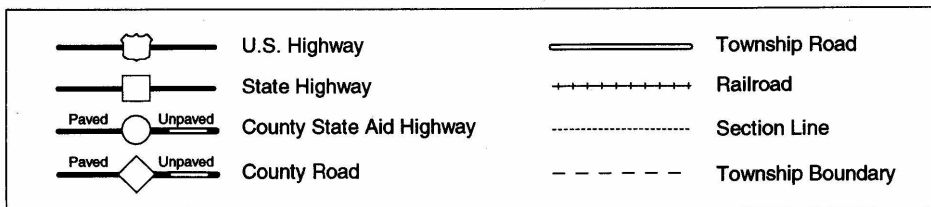
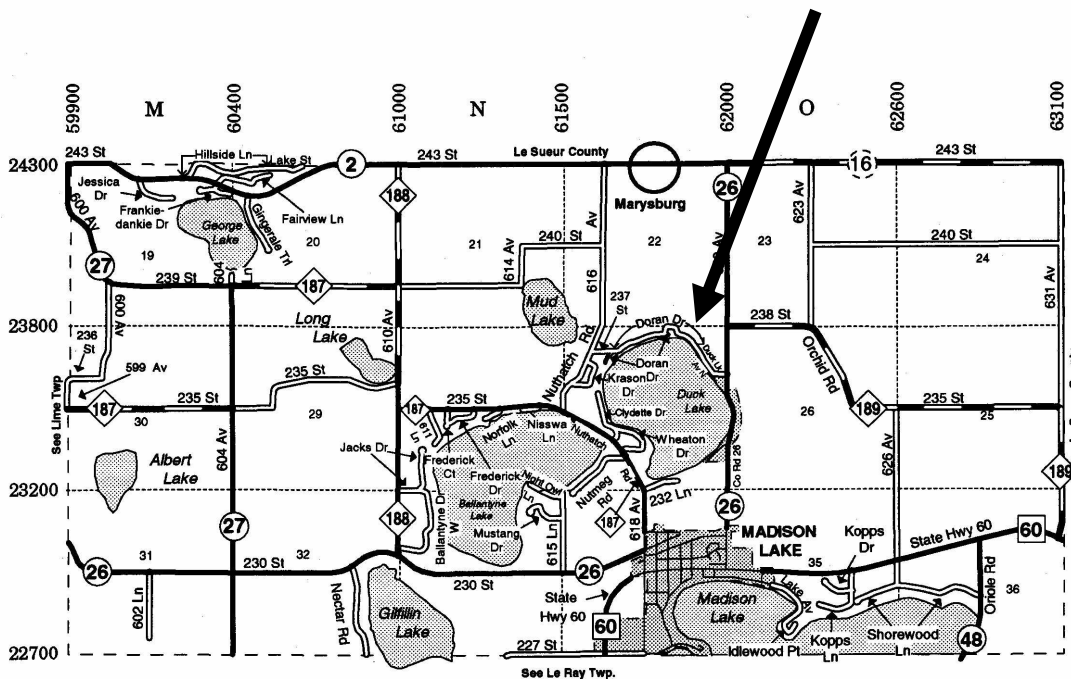
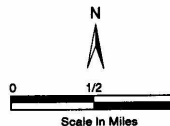
Attachments

- A-1 Site Location
- A-2 Site Map
- A-3 Environmental Health Comments
- A-4 Variance Checklist

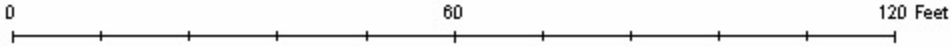
Attachment A-1 General Location Map

Jamestown

T 109 N - R 25 W



A-2 Site Map



**Blue Earth County Environmental Services Department
Land Use and Natural Resources Section
Post Office Box 3566
Mankato, Minnesota 56002-3566
Telephone: (507) 304-4381**

Environmental Health / Sanitarian Report

May 21, 2010

Environmental Health Comments/Questions

R37.05.27.201.044

Paul Young - Request for a variance to reduce the side yard, bluff and ordinary high water mark (OHM) setbacks for the purpose of replacing an existing storage area and expanding the bathroom facilities of an existing cabin. The property is zoned Rural Townsite and Shoreland and is located in the NW ¼ of the NE ¼ of Section 27, Jamestown Township.

Septic System: This property is currently serviced by a holding tank system. The system was inspected in 2010 and found to be compliant. Upon availability of sanitary sewer, a connection must be made and the holding tank legally abandoned.

Water Wells: There is no record of the well servicing this property. It may be shared with other neighbors.

Wetlands: Upon review there appears to be no additional wetlands on the property beyond what may be present adjacent to the lake.

Environmental Health Recommendation: Approval

Approval Conditions: Upon availability of sanitary sewer, a connection must be made and the holding tank legally abandoned.

Blue Earth County Board of Adjustment

FINDINGS OF FACT SUPPORTING AN AREA VARIANCE

An area of variance may be granted only where the strict enforcement of county zoning controls will result in “practical difficulty”. A determination that a “practical difficult” exists is based upon the consideration of the following criteria as defined by the Minnesota Supreme Court in In re the Matter of the Decision of County of Otter Tail Board of Adjustment to Deny a Variance to Cyril Stadvold and Cynara Stadvold.

1. Is the Request a substantial variation from the intent of the zoning ordinance?
Why or why not?

2. Will the request have an adverse effect on government services? Why or why not?

3. Will the requested variance effect a substantial change in the character of the neighborhood or will it result in a substantial detriment to neighboring properties?
Why or why not?

4. Is there a feasible method to alleviate the practical difficulty without need of a variance? (Economic considerations play a role in the analysis under this factor)
Why or why not?

5. How did the practical difficulty occur? Did the landowner create the need for the variance? Explain.

6. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?

IF ALL OF THE ANSWERS ARE “NO”, THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.