



Zoning Board of Appeals

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Chair

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May 6, 2022

TO: Gregory Koeppen, Chair
Lake County Zoning Board of Appeals

FROM: Brad Denz, Senior Planner
Lake County Department of Planning, Building and Development

CASE NO: #000760-20222

REQUESTED ACTION: 1. Reduce the water's edge setback from 30 feet to 0 feet to construct an accessory structure.

HEARING DATE: May 12, 2022

GENERAL INFORMATION

APPLICANTS: Robert Charles Atwater and Jenna F. Atwater, record owners

OF PARCELS: Two

SIZE: 0.64 acres, per Lake County Maps Online

LOCATION: 25823 and 25819 W. Oak Lane, Ingleside, Illinois
P.I.N. 05-13-302-028; 05-13-300-001.

EXISTING ZONING: Residential-3 (R-3)

EXISTING
LAND USE: Single-family dwelling with detached garage and boathouse

PROPOSED: Renovation of existing boathouse

SURROUNDING ZONING / LAND USE

EAST and WEST: Residential-3 (R-3) / Single-family dwellings

NORTH: Residential-3 (R-3) / Vacant

SOUTH: Open Space (OS) / Long Lake

COMPREHENSIVE PLANS

LAKE COUNTY: Residential Single-family Small Lot (<0.25-acre lot density)

DETAILS OF REQUEST

ACCESS: The property takes access from W. Oak Lane.

CONFORMING LOT: The subject property, consisting of two lots, comprises a conforming parcel in the Residential-3 (R-3) zoning district.

FLOODPLAIN / WETLAND: The subject property is not located in a wetland. The southern edge of the property, adjacent to the shoreline, is located in a floodplain.

SEWER AND WATER: The property is currently served by public sewer and private water well.

STAFF COMMENTS

Lake County Public Works – Comments by Brittany Sloan

LCPW has no objection to the request.

Lake County Health Department – Comments by Tom Copenhaver

The Heath Department has no objections to this variance request. The property is served by public sewer and the new well for the property is proposed in the area between the garage and house. The existing well will be sealed.

Lake County Environmental Engineering Division - Comments by Joel Krause

The Engineering Division has no objection to the requested variance. Note that a Site Development permit will be required along with approval from the U.S. Army Corps of Engineers for the complete proposed scope of work for the project.

Lake County Building Division – Comments by Bob Springer

The Building Division has no objection to the granting of this request. Final approval of the project is subject to review of the construction documents once the building application is submitted.

ADDITIONAL COMMENTS

The property is improved with a single-family dwelling, detached garage, and a nonconforming boathouse/accessory structure abutting Long Lake. In addition to the proposed boathouse renovation, the applicant will demolish the existing single-family dwelling and replace it with a new principal structure.

Section 151.271 of the Lake County Code defines a boathouse as “*A structure erected for the purpose of storing boats on an earthen floor or over a water slip*”. Additionally, Lake County Code Section 151.149(H)(7) states the following requirements for a boathouse:

- The boathouse shall be built on an earthen floor or over a water slip;
- The boathouse shall not be used for human habitation;
- The boathouse shall be used only for the storage of boats or tools and may not contain other rooms, workshops, greenhouses, or similar uses.

The proposed building plans for the structure currently include a wooden floor designed for congregation, entirely enclosing a water slip underneath, thereby rendering the slip inaccessible from the interior of the structure. The proposed design is not consistent with a structure used for the exclusive purpose of storing boats, boating accessories or tools, erected on an earthen floor or over a water slip. Per the definition, a boathouse shall not contain a full finished floor. Consequently, by the structure’s design, in its current configuration, does not meet the Lake County definition of a “boathouse”. As a result, the variation request defaults to the category of an “accessory structure”. In turn, a 30-foot variation from the water’s edge setback (ordinary high water mark) is required for an accessory structure. For clarification within this report, the proposed structure will hereinafter be referred to as the “accessory/boathouse structure”. It should be noted that the existing structure has a similar design (albeit with a smaller footprint), in that it is improved with an interior flooring system built over and enclosing an existing water slip. As such, it is considered nonconforming. The proposed design consists of an expansion of this floorplan. Although incidental repair and normal maintenance of nonconforming structures is permitted, per Lake County Code Section 151.130(C), the expansion of nonconformities shall not be permitted.

RECOMMENDATION

It is the applicant’s desire to reconstruct the existing accessory/boathouse structure so that it may be architecturally and aesthetically compatible with the proposed new single-family dwelling. However, in staff’s opinion, the proposed/expanded design is not justified by exceptional property conditions, nor would denial of the variance amount to a hardship. As a result, staff is compelled to recommend denial. In staff’s opinion, the request does not meet all of the required standards in the following manner:

1. Exceptional conditions peculiar to the applicant’s property:

Comment: Although the property does have a steep terrain, it is a conforming parcel with enough area that it does not preclude the applicant from placing an accessory structure outside the 30-foot water’s edge setback. As the design of the proposed accessory/boathouse structure itself necessitates the variation request, the elimination of the non-boat storage features would allow the project to meet the

definition and requirements for a boathouse and thereby be permitted within the water's edge setback adjacent to the water. In addressing this standard, the application notes the existing structure's deteriorated state, such as ripped screens and the necessity of new electricity. However, incidental repair and normal maintenance of these conditions would likewise be permitted within the existing structure without necessitating a variance. Overall, none of the factors listed are considered by staff to be exceptional conditions peculiar to the applicant's property that would necessitate approval of a variance.

2. Practical difficulties or hardship in carrying out the strict letter of the regulation:

Comment: A denial of the accessory/boathouse structure would not deny the applicant a reasonable use of the property. If the variation request is denied, the applicant has the opportunity to either (1) repair the existing non-conforming accessory/boathouse structure consistent with the incidental repair/normal maintenance provisions for nonconformities or (2) remove the features which are inconsistent with the Ordinance and build a new structure to shelter a boat that would adhere to the requirements of Lake County Code Section 151.149(H)(7).

3. Harmony with the general purpose and intent of the zoning regulations:

Comment: It is the intent of the zoning regulations of the Ordinance for staff and applicants to apply a strict definition to, and use of, structures located within thirty feet of water bodies. Ultimately, the proposed design features of the accessory/boathouse structure would be inconsistent with the intent of the Ordinance regulations by allowing the use of the structure for non-boat storage purposes. Approval of the requested variation could also potentially set a future precedent for other requests for similar structures on properties along the Long Lake shoreline. As such, the variation request is not in harmony with the general purpose and intent of the Lake County Code.

In addition to the three standards listed above, the application must also address the following additional criteria since the structure, in its proposed location, would affect floodplain lands or affect any floodplain per Lake County Code Section 151.056 (D).

1. A finding that the granting of a variance would not result in increased flood heights, additional threats to public safety or extraordinary public expense, nor create nuisances, cause fraud or victimization of the public, nor conflict with existing local laws or ordinances and that all buildings will be protected by methods that minimize flood damage during the base flood event.

Comment: It appears there are no changes proposed below the BFE; therefore there should not be *any* increase in flood heights, additional threats to public safety or extraordinary public expense.

2. A finding that the development activity cannot be located outside the floodplain; and

Comment: The development activity may be located outside the floodplain. There is approximately 125 feet between the floodplain boundary to the house, which leaves sufficient area in which to locate an accessory structure.

3. A finding that the development activity is not in a regulatory floodway.

Comment: The development activity is not in a regulatory floodway, but rather, is within the regulatory floodplain of Long Lake.

RECOMMENDED CONDITIONS

In the event the Board is inclined to grant the variation to reduce the water's edge setback from 30 feet to 0 feet to construct an accessory structure, staff recommends the following conditions to accompany such approval:

1. The variation shall be consistent with the site and building plans of ZBA application #000760-2022.
2. The structure shall be built in accordance with all applicable building codes.
3. The structure shall comply with applicable U.S. Army Corps of Engineers requirements.