

Snyder said the applicant's parcel is a riparian lot on Badger Lake approximately 27.5 acres in size and located in section 34 of Badger Township. The existing septic system was installed in 2006 and will be required to be inspected since the system is over 5 years since installation. The applicant would need to get a compliance inspection if the variance request is approved.

Snyder stated that there is an existing 24' x 22' (528 sq ft) detached garage located 58' from Badger Lake. Also located on the parcel are two smaller sheds (160 sq ft and 120 sq ft) located approx. 215' from Badger Lake. The variance request is to construct an 18' x 45' (810 sq ft) addition to an existing 30' x 45' (1350 sq ft) detached shed. A conditional use permit would allow a total of 1,600 sq ft of combined accessory structures within 300 feet of Badger Lake for this parcel, which is already exceeded with existing accessory structures.

Snyder said the existing square footage for accessory structures within 300 feet of the lake is 2,158 sq ft and the addition would put that total to 2,968 sq ft. The variance request is to locate the proposed 810 sq ft addition to the existing shed structure approximately 150' from Badger Lake. The applicant stated that the practical difficulty is that the building addition will be located 150 feet instead of constructing a new accessory structure 300 feet from the OHWL of Badger Lake. 150 feet is the structural setback for a natural environment lake.

Snyder stated the applicant added in the application that the request is consistent with the zoning ordinance since it meets the structural setback and the parcel is well under the 25% max impervious surface coverage. The impervious coverage is less than 1% when factoring in the addition to the existing shed. The applicant noted the shed is on a very large parcel so it would allow personal belongings to be located out of sight. The applicant stated that it is his desire to stay out of wetland areas on the property and not wanting to take ag land out of production which would happen when locating a shed over 300 feet from the lake. In the landowners' opinion, the shed addition would not change the character of the locality. The use would be personal cold storage and there would be no need to build an entirely new structure with the additional shed square footage.

Snyder said the following comment was received:

Stephanie Klamm, DNR Area Hydrologist commented via letter stating:
MN DNR EcoWaters received a copy of the variance request application submitted by Chris Smeby for allowance to exceed the square footage on an accessory structure on a riparian parcel located on Badger Lake. He would like to construct a new addition (810 sq ft) to an existing pole shed (1350 sq ft) Parcel #03.00193.00 Is located on Badger Lake in the SW ¼ SE ¼ of Section 34, T149N, R42W, Polk County. Please submit my comments to the Polk County Board of Adjustment regarding this variance request.

Variations shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the practical difficulties in complying with the official control. "Practical difficulties" as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Unique Circumstances: Unique circumstances are related to physical characteristics on the land, such as lot shape and dimensions. It is not personal matters unrelated to the property itself such as growing family, design preferences or changes made to the property by the property owner that prevent compliance with the ordinance. In this case, Mr. Smeby has not demonstrated a unique circumstance. The variance request is being driven by design preferences and economic concerns of the owner to build in an area that is protected by shoreland rules, not the uniqueness of the lot.

Essential Character: Essential character is whether the resulting structure or land disturbance will alter the hydrology, soil stability, vegetation, aesthetics, and landscape features on the site or be out of place or scale or otherwise inconsistent with the surrounding area. By adding on to the existing structure an additional 810 sq ft the applicant will be increasing the storm water runoff into Badger Lake. Mr. Smeby has not demonstrated that the new addition will not alter the essential character of the property.

Reasonable Manner: This criterion asks if the request is reasonable given the purpose of the ordinance. This statutory criterion is from the perspective of what the ordinance is trying to achieve, not what the property owner thinks is reasonable use. The purpose is to minimize negative impacts to views of the land from the lake. This applicant states that the sheds are on a large parcel and will allow for more belongings to be stored inside and out of sight. Though the project may keep belongings inside and out of sight, it also keeps a non-conforming lot (oversized accessory structures) non-conforming.

Variance requests should only be the minimum deviation to achieve the purposes of the ordinance. In the application, the Smeby's state that the only alternative is to build an entire new structure on the site. The Smeby variance request involves building a new addition to an existing oversized accessory structure on the parcel, which is over the allowed square footage for a riparian parcel (800 sq ft). The proposed new addition is 810 sq ft when this is added to the existing structure of 1,30 sq ft the footprint of the shed will be 2,160 which is 1,360 sq ft over the allowed size for a riparian accessory structure. The primary purpose of shoreland control is to protect water quality and riparian habitat. Shoreland control minimize erosion and sedimentation into public waters by limiting density and the placement of structures away from the shore. This means reducing, over time, the number of nonconforming structures within the shore impact zone that fall short of meeting current shoreland standards. The proposed new accessory structure will increase the amount of the lot covered by impervious surface. Additional impervious surface would result in higher rates of storm water runoff and storm water volumes negatively affecting the surrounding wetland fringe and Badger Lake.

It appears that the variance request is being driven by the design preference of the owner. There are other options that can be explored for the new accessory structure. One option might be removing two smaller sheds (total of 280 sq ft) and make the addition smaller to keep it closer to a 2,000 sq ft structure which would be an addition to the existing structure that is 45 feet long by 14.45 feet wide (650 sq ft). Though still over the size allowed in the ordinance for a riparian parcel, this would reduce the amount of impervious surface to the parcel. Mr. Smeby has not shown that there is a "practical difficulty" associated with the property.

Please review these requirements carefully when reviewing the requested variance. We recommend the Board of Adjustment decide as to whether a "unique circumstance" and "practical difficulty" exists, and that Mr. Smeby investigates other options that could be implemented which would comply with your ordinance.

Snyder then went over slides showing: Application, property location map, sketch of buildings on property and property photos.

Snyder said that staff feels that there are other options like locating the shed over 300 feet from the OHWM of Badger Lake which would allow the applicant to construct a larger shed further away from the lake shore. Another alternative would be to add an attached garage onto the house to gain additional storage space if that is the ultimate intent of the accessory structure addition. Accessory structures are structures that are secondary to the principal dwelling, whereas an attached garage is allowable without limitations on square footage but still must meet structural setbacks.

The variance request doesn't seem to meet the "practical difficulty" criteria or demonstrate the lot has unique circumstances driving the variance request. The request seems to be driven by personal preference and is economically motivated.

Staff reminds the Board of Adjustment that they have two jobs in the variance process. 1) Determine if the request involves practical difficulty. 2) Answer the variance questions with a board majority yes to all variance questions.

If the BOA recommends approval of the variance, they should consider the following conditions.

1. Existing trees should be maintained to screen the structure from view of the water.
Tree planning between the structure and the waters edge?
2. The proposed structure has a maximum height not to exceed 15 feet to the peak.
3. Septic compliance inspection must be completed on the existing septic system.

Powers opened the meeting for questions. Smeby said that he has already removed one of the smaller sheds, the 160 sq ft one and that the new addition would be about 13' in height. He also stated that during leaf on, you cannot see the shed from the lake. Snyder showed in the photos that to add onto the house, the septic is on one side and the electrical pole is on the other side.

Jerde asked about the existing sheds already exceeding square footage. Snyder said when they were built, the rules were different. Jore said he feels the cleanest option is to add on to his existing shed and that moving 300' away would take ag land out of production. Vonasek stated that sometimes adding on is more expensive than building new and if your plans are in the future to build a new house, would that be allowed with the nonconforming sheds? Snyder explained that the house, as long as it meets setbacks, would be allowed. We would not hold up a permit for a new house because there is non-conforming buildings on the lot.

Jore said that the DNR's comments are their opinion and we made the decisions. Snyder read the section of the PCZO on non-conforming after Jerde asked for clarification.

Powers asked if anyone had more questions. Hearing none, Powers then closed the meeting for public testimony. With no other questions or comments from the Board, Snyder asked the Board the variance Questions.

Question	Vonasek	Kuzel	Jerde	Jore	Powers
1.	Yes	Yes	Yes	Yes	Yes
2.	No	No	No	Yes	Yes
3.	Yes	Yes	No	Yes	Yes
4.	No	No	No	Yes	Yes
5.	Yes	Yes	No	Yes	Yes
6.	Yes	Yes	Yes	Yes	yes

Snyder stated with answers to the questions above, there is not a majority of yes's to all questions, so therefore criteria to grant the variance has not been met.

A motion was made by Jerde to deny the Variance request. Second by Vonasek. Jerde stated she would like to see a different alternative to the many question marks we had.

Ayes: All

Nays: None

Motion carries.

Meeting adjourned.