

MINUTES
Blue Earth County Board of Adjustment
Regular Meeting
Wednesday, July 1, 2015
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:00 P.M. by Chairman Lyle Femrite. Board of Adjustment members present were Bill Anderson, Kurt Anderson, Lyle Femrite, Chuck Grams and Barry Jacques. Planning & Zoning staff members Mike Schulte, Aaron Stubbs, Ben Effah and George Leary were also present.

2. APPROVAL OF MINUTES

Mr. Kurt Anderson made a motion to approve the minutes from the May 6, 2015 regular meeting of the Board of Adjustment. Mr. Jacques seconded the motion which carried unanimously.

3. APPROVAL OF AGENDA

Mr. Leary indicated there was no change to the agenda.

4. NEW BUSINESS

BOA 05-15

Kay Willaert - Request for a variance to reduce the required setback to the centerline of a county road from 130 feet to 62 feet, to reduce the required setback to the center of a private road from 65 feet to 38 feet, and to reduce the required setback of the ordinary high water level of Lake Ballantyne from 75 feet to 73 feet for the intended purpose of constructing an addition to an existing seasonal cabin. The property is zoned Rural Townsite and is within the shoreland overlay district of Lake Ballantyne. The property is also located within the Urban Fringe Overlay District of the City of Madison Lake. The site is Lot 7 Block 1 of Auditors Plat No. 78 which is located in part of the SE quarter of the NE quarter of Section 28 of Jamestown Township.

Mr. Effah presented the staff report.

Mr. Leary asked the Board to consider three additional conditions:

1. That a 10 foot x 75 foot native vegetation buffer be added as requested by the Minnesota Department of Natural Resources.
2. That the lowest floor of the proposed addition be located at or above the 1019.14 elevation level.
3. That the total amount of impervious surface area shall not exceed 25% as imposed by county and state DNR regulations.

Joel Willaert was present on behalf of the applicant. Mr. Willaert advised the Board that the size of the addition proposal had been reduced from 14' x 22' to 12' x 22' as requested by the sewer district in order to allow adequate distance between the proposed addition and the grinder station. Mr. Willaert indicated he had received approval from Chuck Vermeersch from the sewer district and from Alan Forsberg of the County Hwy Department. He added that the 12' x 22' addition will be more aesthetically pleasing than a 96 square foot addition.

Dave Stevens indicated to the Board they had measured up the impervious surface area of the lot and it added up to 18%.

There was no further public comment.

Mr. Kurt Anderson stated he had visited the property. He pointed out that it is a small parcel of property with overlapping setbacks. Mr. Anderson opined that the situation was created by the placement of the county road. He also credited the applicants for participating in the sewer district.

Mr. Anderson also indicated that the photos provided by the applicants provide a better perspective of the cabin as the aerial photo provided by staff would indicate a larger structure. The actual living quarters are actually the size of a single car garage because half of the structure is a deck under the roofline.

Mr. Femrite agreed there is a need for some additional facilities. He also recalled previous discussions for accommodating at least marginal sized bathroom additions and that those discussions do apply in this situation.

Mr. Grams asked what they currently have for bathroom accommodations.

Mr. Anderson stated they are using a port-a-potty.

Mr. Femrite stated his opinion that by adding an 8' x 12' addition will be of benefit and will allow them to use the utility hookup. He further opined the Board is going against the 8' x 12' standard discussed earlier. Mr. Femrite concluded by questioning how the Board could approve a 12' x 22' addition.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Mr. Femrite and Mr. Kurt Anderson - Yes and No

Why or why not? Mr. Femrite and Mr. Kurt Anderson both indicated it depends on which standard the proposal is applied to, but it is non-conforming. Mr. Femrite stated "yes" if the addition is 8' x 12' and "no" if larger. Mr. Anderson added that this is a non-conforming property and there are a number of non-conforming properties in the county in the shoreland district. He added that the shoreland ordinance is a relatively new and these properties were used for generations prior to the implementation of the ordinance, therefore the variance is not in harmony with the rules that exist today but what is being proposed by the applicant will be more in harmony with surrounding structures.

2. Has the applicant thoroughly explained the need for a variance from the official controls? Mr. Femrite and Mr. Kurt Anderson -Yes

Why or why not? Mr. Anderson stated his understanding for the need for brevity in reports prepared by staff. He added that the applicant had done an outstanding job providing the attachment and going through in detail his reasoning and the two or three sentence summary from staff did not do it justice. Mr. Femrite stated that was based upon the applicant's opinion.

3. Is the alleged practical difficulty due to circumstances unique to this property? Mr. Kurt Anderson, Mr. Bill Anderson and Mr. Femrite - Yes

Why or why not? No comment was provided.

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? This question was unintentionally skipped.
5. Does the alleged practical difficulty involve more than economic considerations? Mr. Kurt Anderson, Mr. Bill Anderson and Mr. Femrite - Yes
 Why or why not? No comment was provided.
6. Without the variance, is the owner deprived of a reasonable use of the property? Mr Kurt Anderson - Yes
 Why or why not? Mr. Kurt Anderson the applicants are paying for sewer hookup and without a vairnace, the applicants would not be able to take advantage of the sewer hookup.
7. Is the request the minimum variance necessary to afford relief? Mr. Kurt Anderson - No
 Why or why not? Mr. Anderson stated the number arrived at in creating a wet wall comes with the assumption that there will be useable space on the other side of the wall to add a kitchen. He added that it is this item that he has taken issue with as it is an extremely small cabin. The 8' x 12' addition as suggested by staff would be the minimum needed to afford relief but he proposal from the applicants is not outlandish. Mr. Anderson acknowledged the request is not the minimum
8. Will the issuance of the variance maintain the essential character of the locality? Mr. Kurt Anderson, Mr. Bill Anderson and Mr. Femrite - Yes
 Why or why not? Mr. Kurt Anderson referenced the property immediately to the east which further encroaches upon the center of the private road. Mr. Grams agreed they do have a larger setback. Mr. Bill Anderson this is a problem created by one change to the ordinance and most of the structures could be grandfathered in. Mr. Jacques stated the road was in alignment and it was changed some more toward the lake.
9. Will the public health, safety and environment be preserved if the variance is approved? Mr. Kurt Anderson - Yes
 Why or why not? Mr. Kurt Anderson stated the property will be enhanced. Mr. Bill Anderson stated the approval of the variance will lead to an improvement of the property. He agreed the Board does have a standard for a smaller addition. However, due to the circumstances the applicants have spent money on the sewer hookup and have shown an improvement to the environment.

Mr. Leary asked the Chair for time to comment. He asked again that the three addition conditions be included with the resolution. Mr. Leary asked the Board to recall that the extension of municipal sewer was not to facilitate the expansion of non-conformities but rather to provide a wastewater treatment service to lots with non-conforming septic systems that were having a negative impact on the lake. He further exclaimed that the extension of municipal sewer service will have a positive impact on the lake, but the expansion of this cabin will not have a positive impact on the environment of the

lake. He added that the previous discussion regarding the expansion of dry cabins was needed to provide water and restroom facilities to these structures.

There was further discussion by the Board regarding the elevation of the existing cabin and the proposed addition and the stormwater runoff. Mr. Kurt Anderson stated that due to the ice heaves, there is an area in front of the cabins where the stormwater ponds. He opined that it would take a lot of water before it will have an impact on the lake.

Mr. Kurt Anderson recalled the earlier discussions by the board on the expansion of cabins. He commented that the 8' x 12' was the minimum area needed to accommodate handicap accessibility requirements. Mr. Anderson stated that he is treating this as unique and is in no way setting precedence for future action on other properties. He added that if the area of deck on the structure was actually living area he would be more inclined to support the county staff recommendations. He added that the proposed addition of 12' x 22 feet will not be infringing on the side yard setback but it will be an intensification of the property. He did provide his support for the additional conditions requested by staff.

Mr. Bill Anderson concurred that he did not want to set precedence but the structure is unique. He added that he did not want to see this addition become the standard, but rather that every lot should be judged at individually.

Mr. Kurt Anderson made a motion to approve the requested variance for the 12' x 22 foot addition with the additional conditions requested by staff. Mr. Bill Anderson seconded the motion. The motion carried by a vote of four to one. The one opposed vote was cast by Mr. Femrite.

BOA 06-15

Larry Ward - Request for a variance to reduce the buildable area requirement for two already developed lots from 1.0 acre to 0.4 and 0.52 acres respectively. The proposal is to reconfigure two already developed properties to allow more efficient use of both properties. The property is zoned agricultural and is located in the NW corner of the NW quarter of the SW Quarter of Section 25 Jamestown Township.

Mr. Effah presented the staff report.

The applicant was present and had no comment.

There was no public comment and little discussion by the Board. The Board moved on to the findings of fact checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? All - Yes

Why or why not? No comments

2. Has the applicant thoroughly explained the need for a variance from the official controls? All - Yes

Why or why not? No comments

3. Is the alleged practical difficulty due to circumstances unique to this property? All - Yes

Why or why not? No comments

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? All -Yes

Why or why not? Mr. Leary advised the Board that the western parcel with the long narrow strip to the south was created by the applicant's father-in-law some years ago. The applicant concurred.

5. Does the alleged practical difficulty involve more than economic considerations? All - Yes

Why or why not? Mr. Kurt Anderson stated that it would preserve farmland.

6. Without the variance, is the owner deprived of a reasonable use of the property? Mr. Kurt Anderson – No

Why or why not? No comments

7. Is the request the minimum variance necessary to afford relief? Mr. Femrite and Mr. Kurt Anderson - Yes

Why or why not? No comments

8. Will the issuance of the variance maintain the essential character of the locality? All - Yes

Why or why not? No comments

9. Will the public health, safety and environment be preserved if the variance is approved? All- Yes

Why or why not? No comments

Mr. Kurt Anderson made a motion to approve the variance as proposed. Mr. Grams seconded the motion and the motion carried unanimously.

BOA 07-15

Darla Christensen - Request for a variance to reduce the required setback to the centerline of a county road from 130 feet to 48 feet, to reduce the required setback to the centerline of a private road from 65 feet to 15 feet and to reduce the required setback to the ordinary high water level of Lake Ballantyne from 75 feet to 65 feet for the intended purpose of replacing an existing seasonal cabin and deck. No expansion is proposed to the footprint of the existing cabin or deck. The proposed replacement cabin will have an additional half story which will allow the utilization of space in the rafters. The property is zoned Rural Townsite and is in the shoreland overlay district of Lake Ballantyne. The property is also located in the Urban Fringe Overlay District of the City of Madison Lake. The site is Lot 6 Block 1 of Auditors Plat No. 78 which is located in part of the SE quarter of the NE quarter of Section 28, Jamestown Township.

Mr. Stubbs presented the staff report and asked the Board to include three additional conditions.

1. That a 10 foot x 75 foot native vegetation buffer be added as requested by the Minnesota Department of Natural Resources.
2. That the lowest floor of the proposed addition be located at or above the 1019.14 elevation level.

3. That the total amount of impervious surface area shall not exceed 25% as imposed by county and state DNR regulations.

The applicant was present and had no comment.

There was no public comment.

Mr. Kurt Anderson indicated he had visited the site and believed it is a reasonable request. He added that the review of the request is on the individual merits of the property and is not intended to set precedence. He commented that eh applicants hook up to municipal sewer will be of environmental benefit to the lake and the existing cabin is in poor condition.

Mr. Grams indicated he had no issue with the request as it is in the footprint of the existing structure.

Mr. Kurt Anderson made a motion to approval the proposed variance with the conditions as presented by staff.

The Board moved on to the findings of fact checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Mr. Femrite and Mr. Kurt Anderson - Yes
Why or why not? Mr. Kurt Anderson stated for a non-compliant property it is.
2. Has the applicant thoroughly explained the need for a variance from the official controls? All - Yes
Why or why not? No comments
3. Is the alleged practical difficulty due to circumstances unique to this property? All - Yes
Why or why not? No comments
4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? Mr. Femrite & Mr. Kurt Anderson - Yes
Why or why not? No comments
5. Does the alleged practical difficulty involve more than economic considerations? Mr. Bill Anderson and Mr. Kurt Anderson - Yes
Why or why not? No comments
6. Without the variance, is the owner deprived of a reasonable use of the property? All- yes
Why or why not? No Comments
7. Is the request the minimum variance necessary to afford relief? All - yes

Why or why not? No comments

8. Will the issuance of the variance maintain the essential character of the locality? All - yes

Why or why not? No comments

9. Will the public health, safety and environment be preserved if the variance is approved? All - yes

Why or why not? No comments

Following the review of the findings of fact checklist, Mr. Grams seconded the motion made by Mr. Anderson. The motion carried unanimously.

5. ADJOURNMENT

There was no further business. Mr. Kurt Anderson made a motion to adjourn the meeting. Mr. Jacques seconded the motion which carried unanimously and the meeting was adjourned at 8:30 p.m.

Board of Adjustment Chair

Board of Adjustment Secretary