

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

The Goodhue County Board of Adjustment was called to order at 7:00 p.m. by Chairman Brad Anderson in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Stanley Klair Brad Anderson Dennis Monroe Mike McKay
 Mike Wozniak

Absent: Judy Fritzingler Randy Juliar

K. Gross said that the second item on the agenda, the gentleman's proper name is "Joseph".

¹Motion by S. Klair seconded by D. Monroe and carried to approve the June 26, 2006 Board of Adjustment Agenda as amended. Motion carried 4:0.

K. Gross stated that "as amended" should be stricken from the record for the motion regarding the April 24, 2006 minutes.

²Motion by S. Klair seconded by C/B. Anderson and carried to approve the May 22, 2006 Board of Adjustment as amended. Motion carried 4:0.

Staff Updates: M. Wozniak said that he would like to mention that there was a meeting about buffers to protect public waters. We had an interesting meeting with DNR, SWCD staff, Grant County staff, and Goodhue County Staff. In attendance was BOA members as well as SWCD Board. Their shoreland ordinance, as well as ours requires a 50' buffer from public waters. They gave us some insight and tools to use to implement the program in our County.

Conflict/Disclosure of Interest: None to be discussed.

Kari Brown c/o T-Mobile Central Pt of the N ½ of the SE ¼, Section 12, T112N, R16W, Vasa Township. Kari Brown on the behalf of T-Mobile is applying for a variance to erect a wireless communication tower 300' from a bluff impact zone instead of the required quarter mile (1,320'). The variance is for 1,020'.

The Conditional Use Permit for the location was approved by the Goodhue County Board of Commissioners at their June 6, 2006 meeting with the contingency that T-Mobile obtained the variance to the bluff impact zone.

The proposed communication facility will consist of a 195 ft. above-grade self-support monopole tower and a related equipment platform, located within a 50 ft. by 50 ft. fenced compound. Directional panel antennas will be attached to the top of the tower, and a 4 ft. lightning rod will extend above the tower for electrical protection (for a total height of 199 ft. above-grade). (Please review the attached application materials provided by the applicant according to Article 22 of the Zoning Ordinance). The proposed site contains a single family dwelling and hobby farm. The particular site has been utilized for crops for the past several years. The property owners, Richard and Lori Treptow, have signed a lease agreement with T-Mobile. (Please see the attached lease). The proposed tower is over 400 ft. from the property owner's dwelling, over 1,300 ft. from the nearest neighboring dwelling, 384 ft. from the West property line, 122 ft. from the South property line, over 400 ft. from the right-of-way of Highway 19 Boulevard, and over 1,000 ft. to the north property line.

The Township has signed the Zoning Application Summary Form, indicating their approval of the requested conditional use permit, therefore approving the location. The applicants cannot meet the bluff impact zone setback and keep the tower on the proposed property.

Findings of Fact

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

Due to the nature of the property the tower would have minimal impact on the bluff impact zone. The bluff impact zone in this instance is more of a ravine. The intent of the ordinance was to preserve the bluff land area from citing towers on the top of them where they would be visually conspicuous or from the base where they could cause potential damage to the integrity of the bluff if the tower should collapse. The property in question does not contain that type of bluff land where it would be visually conspicuous to lower land or that it would damage the integrity of a bluff. Wireless communication towers are a vital piece of today's technology. The plight of the applicant is due to circumstances unique to his property not created by the applicant; and the variance if granted will not alter the essential character of the locality.

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommend approval of the variance to erect a wireless communication tower 300' from the bluff impact zone instead of one fourth (1/4) of a mile (variance for 1,020').

BOA Discussion

Kari Brown was present and stated that they are prioritized on this property because of the nature coverage and natural barriers to protect the visibility of the tower. They proposed to put in a monopole because it is less visible. Along Hwy 19, the hill comes down at a slant that it really won't be readily visible. They have to come in and build a tower. They have to fill their rings. This is the ideal location because of the natural barriers. They were not initially aware of the setback to the bluff impact zone.

M. Wozniak said that staff realized this requirement directly before the Planning Advisory Commission meeting. The Planning Advisory Commission granted the Conditional Use Permit as presented by staff with the stipulation that they obtained a variance to the bluff impact zone.

Ms. Brown stated that Vasa Township did not have any problem with it either.

D. Monroe asked if they picked the site because of the trees versus being closer to Hwy 19.

Ms. Brown stated that they have rings of coverage to fill on Hwy 19. Their goal is to fill the gap that goes down into the valley so there is coverage. Right there is dead spots.

M. McKay asked about the technicality of the request, if T-Mobile is acquiring the variance or if the landowner is.

K. Gross stated that there is a lease in place between T-Mobile and the landowner, therefore T-Mobile is requesting the variance. T-Mobile obtained the Conditional Use Permit, and they are seeking the variance.

S. Klair clarified that this was more of a ravine.

C/B. Anderson said that our definition of a bluff is determined by soil type and a hill. The planning commission should change that for some other definition than bluff for those areas. The language is confusing. What we are trying to protect is severe slopes.

C/B. Anderson opened the public hearing.

With no public comment M. McKay motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 4:0.

C/B. Anderson asked the reason for the 1/4 mile setback.

M. Wozniak said that his idea is that rather than this situation, but more so if you were on a river bluff if the tower is 1/4 mile back from the top of the bluff the impact from the river would be less.

D. Monroe asked visually then?

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

M. Wozniak said yes, and maybe a little further back, and if it were to fail it could impact vegetation and cause erosion problems. That is what logic tells me the reason.

C/B. Anderson asked if the Planning Advisory Commission thought they were thinking this area when they were talking bluffs or were they talking river bluffs.

M. Wozniak said they weren't thinking of a site like this.

C/B. Anderson said that is what he has gathered from other requests in this situation.

M. Wozniak said that this is something we could take up with the planning commission at some point. We still want to protect these steep slopes but not in the same manner as we do the bluffs.

³Motion by M. McKay and seconded by D. Monroe to approve the request for a variance variance to place a wireless communication tower 300' from a bluff impact zone instead of the required quarter mile (1,320'). Variance is for 1020' based on staff recommendation, findings of fact and the site visit. Motion carried 4:0.

Joseph Hommes – Pt of S1/2 of SW ¼ Section 24, T112N, R18W, Stanton Township. Mr. Hommes is requesting a variance to build an accessory building 35' from the South property line instead of the required 100' setback.

Mr. Hommes came in for a building permit. When zoning was doing the site review, it was found that his property is zoned A-3 Urban Fringe and requires a 100' setback.

The proposed building is 28'x24'. Please note Mr. Hommes' narrative in his application outlining his request and the included site plans. The site visit showed that the location that Mr. Hommes is proposing would be aesthetically pleasing. The property is 360' wide, the garage would be able to be built at the required setbacks. Stanton Township has issued a building permit for the garage.

Findings of Fact

A hardship does not exist. There are alternate locations for the garage that meet the required setbacks. There are no special circumstances or conditions affecting the land, building or use that do not apply generally to other property in the same vicinity. The request is not in harmony with the general purposes and intent of the official control.

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommends denial of the variance to build an accessory building 35' from the South property line instead of the required 100' setback (variance for 65').

BOA DISCUSSION

Joseph Hommes was present and said that they have lived in their house for twenty years. He said that they would like to build a storage shed for cars. They went to Stanton Township and were approved. When they went to the County they found the required setback is actually 100'. He approached the Board and showed pictures of the property. He said they hoped to build tucked into the trees along the south line of the property. He asked the neighbors to look at the plans to see if it was ok with them. The neighbors have signed letters stating they approve of it and don't have a problem with the request. He said the visibility would be so much better than bringing it out and sticking it more into the field. It would be less accessible for them if they would have to put it there. There is a natural path going to the site where they would like to put it. They have an apple orchard and some grapes that they started and they have a very beautiful path that they started. He pointed out their neighbor's property.

M. McKay clarified which neighbor.

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

Mr. Hommes stated that both neighbors have sheds that you cannot see.

M. Wozniak said that this request speaks to the 100' setback issue that the Board has been bombarded with and we have been having dialogue with the Planning Commission. Each one of these we have to weigh whether or not there is a hardship as it is laid out in the ordinance. Mr. Hommes makes a good argument with the design of the location.

M. McKay said that we have made the judgment call that keeping with the surroundings and keeping with the aesthetics. When did the 100' setback go in.

C/B. Anderson said it was approved in 1994, but it didn't take effect on existing property until 2004.

C/B. Anderson said for all intensive purposes, this is a residential district.

Mr. Hommes said that they said he was urban fringe which surprised him.

M. Wozniak said that they will be having some dialogue to consider prompting a change of zone.

C/B. Anderson opened the public hearing.

With no public comment S. Klair motioned and M. McKay seconded to approve the closure of the public hearing. Motion carried 4:0.

⁴Motion by M. McKay and seconded by D. Monroe to approve the request for a to build an accessory building 35' from the South property line instead of the required 100' setback based on keeping on the theme of the property and the area is more important than sticking to the letter of the law. He is doing the area a service by building in a place where it does not aesthetically detract. Motion carried 4:0.

Toni Buck– Pt of the West ½ of the NW ¼ of Section 17, T111N R15W, Goodhue Township. Ms. Buck is requesting a variance to build an accessory building 40' from the West property line instead of the required 100' setback. Ms. Buck purchased the property and was issued a building permit for the dwelling in June, 2004. She would not like to build a 60'x40' accessory building on the property.

There is a slight hill and the drainfield to the east of the proposed building. The building requires a 20' setback from the drainfield. The parcel is wooded with aged evergreens. The applicant needed to take down quiet a bit of trees for the dwelling, and would like the rest of the trees to remain. The trees were planted in the 1950's. Goodhue Township has issued the township building approval for the accessory building.

The property in question is 231.9 feet wide. Since the proposed building is 40' wide, it would not fit on the property with the 100' required side yard setbacks.

Findings of Fact

The applicant's have stated their hardship is to preserve the mature trees on the property and do not want to remove any more. They would have to shorten the width of the building and move the proposed location further south to meet the required setbacks. The surrounding property is agricultural land and the accessory building should have little to no impact of the use or value of the land adjacent the property of the applicant. An accessory building is a reasonable improvement on the property.

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommends approval of the variance to build an accessory structure 40' from the West property line instead of the required 100' (variance is for 60').

BOA DISCUSSION

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

Toni Buck was present and said she is requesting a variance to build a storage shed for personal storage. The property is made up of mature trees and they have had to remove a lot of trees for the house and the drainfield. They would like to keep the rest.

S. Klair asked how wide her property is.

M. Wozniak said that it would have to be right in the middle of the property and it would have to be a slightly narrower building. This situation comes up a lot. Even if this was set in the middle of the property, this particular building would need a variance. Staff acknowledges the desire to save the mature trees.

D. Monroe said that he was concerned with how the drainfield is sitting that there is a steep drop and if they did not plan on a retaining wall they would have erosion problems.

C/B. Anderson opened the public hearing.

With no public comment D. Monroe motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 4:0.

⁵Motion by S. Klair and seconded by M. McKay to approve the request for a variance to build an accessory building 40' from the West property line instead of the required 100' setback (variance for 60') based on staff recommendation. Motion carried 4:0.

Jeffrey Rehder– Pt of SW ¼ Section 36 T112N R15W, Featherstone Township. Jeffrey Rehder is asking for a variance to build an accessory building 50' from the east property line (50' variance) and 88' from the north property line (12' variance).

Mr. Rehder's property contains 2.29 acres. The property has some slope to it that makes it difficult to locate the building elsewhere. The proposed location is the most logical. You may notice that the building appears closer than 55' from the rear property line in the aerial map provided. However there has been a survey provided of the property and it appears that the applicants distance is correct and should be measured from the field. Featherstone Township has approved a building permit for the request.

Findings of Fact

A hardship exists. The proposed building is a reasonable improvement on the property. The property contains some slopes and is of such a size that any location on the property would require a variance from one property line or another. The plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance if granted will not alter the essential character of the locality.

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommend approval of the variance to build an accessory structure 50' from the East property line (variance for 50') and a variance to build 88' from North property line (variance for 12') instead of the required 100' setbacks.

BOA DISCUSSION

Jeffrey Rehder was present stated that his variance request and said that due to the drainage and the slope of the property it seemed like the most logical place to put it. It was approved by the township.

M. Wozniak clarified his actual property lines versus the aerial map provided in the property.

K. Gross clarified the property line runs to the edge of the field.

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

M. Wozniak said that this is another example of the small lots, when you require 2 acre minimum lot size it does not leave much room for 100' setbacks

C/B. Anderson opened the public hearing.

With no public comment M. McKay motioned and D. Monroe seconded to approve the closure of the public hearing. Motion carried 4:0.

6Motion by D. Monroe and seconded by S. Klair to approve the request for a variance to build an accessory building 50' from the east property line (50' variance) and 88' from the north property line (12' variance). Motion carried 4:0.

Jack & Jennifer Schwab – Pt of the SW ¼ of the NE ¼ of Section 19 T112N R15W, Featherstone Township. Jack & Jennifer Schwab are requesting a variance to be able to build an accessory building 30' from the right of way of CSAH 6 (a 30' variance) and 50' from the rear (East) property line (a 50' variance).

Mr. & Mrs. Schwab's property contains 2.3 acres. The location they are proposing to place the building is approximately 116' wide. The proposed location is set further back from the right of way than the current garage or dwelling. The building is being proposed at approximately 38' from the right of way, which would only be a 22' variance, but are asking for a 30' variance to have room for error. They would be 50' from the rear property line. Featherstone Township has approved a building permit for the request. There is no other location on the property to build the proposed structure.

Findings of Fact

A hardship exists. The proposed building is a reasonable improvement on the property. The property is not wide enough to ensure the building could meet the required setbacks. The plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance if granted will not alter the essential character of the locality.

Staff Recommendation/Resolution

Based on the above stated findings of fact, staff recommend approval of the variance to build an accessory structure 30' from CSAH 6 right of way (variance for 30') and a variance for 50' to the rear (East) property line (variance for 50').

BOA DISCUSSION

Jennifer Schwab said they are requesting a 30' variance from County Rd 6 a building with a mixture of personal and agricultural. Jack has farm machinery he is storing somewhere else. They are planning on taking down the garage near the house.

D. Monroe asked if the proposed driveway is there currently.

Mrs. Schwab said she didn't realize it had to be 200'.

D. Monroe asked if it was there now.

Mrs. Schwab said no it is not. It has never flooded. If fill was needed her brother could fill it. We are going to need a new septic before we start this.

D. Monroe asked if this was registered as wetlands.

K. Gross said that she spoke to Beau Kennedy today and he stated there is wetland to the North and East of her property. We don't believe it is on the property but if it is it will be looked at and there are options to replace wetland if necessary. The SWCD looks at building permit proposals and the wetland issue

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

would get looked at in closer detail at that time. Potential wetlands were just brought to our attention today, so Beau did not have a lot of time to research into it.

M. Wozniak read through the staff memo that was provided at the meeting.

D. Monroe clarified that some of the fencing is in the right of way.

Mrs. Schwab said that some of it was and they could take that out. They are going to leave the new fencing there.

C/B. Anderson asked how many acres they had.

Mrs. Schwab stated they have 2.38 acres.

M. McKay asked if there was any problem with the County conditions.

Mrs. Schwab said she did not have a problem at all.

M. McKay asked if we usually know at this stage if it is a wetland or not.

K. Gross said not usually. Beau gets a copy of the agenda but we don't specifically ask him to review each variance for that. He does review building permits so it comes into account then.

M. Wozniak said that this is another instance where there is a smaller parcel. I'm convinced that staff needs to look at this.

M. McKay said that we have a few of them tonight, but we can handle them pretty readily.

M. Wozniak said that his concern is that some of them aren't meeting hardship. It doesn't mean that they are unreasonable. We can modify the standards or establish a site review process.

M. McKay asked about the use of the building.

Mrs. Schwab said that Jack works full time and he has some old antiques, and they might think the scrap thing, but it will not be a business.

S. Klair asked if he does farming.

Mrs. Schwab said that his dad sold his place last year and he kept everything up there and now it is all over. He used to have 5 acres in Wacouta, but he had to let that go last year because he got a full time job.

C/B. Anderson opened the public hearing.

With no public comment M. McKay motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 4:0.

D. Monroe said they need a storage building.

⁷Motion by D. Monroe and seconded by S. Klair to approve the request for a variance to build an accessory building 30' from the right of way of CSAH 6 (a 30' variance) and 50' from the rear (East) property line (a 50' variance) with the following stipulations 1)They agree to remove the personal property, fences, and other material from CSAH 6 right of way before obtaining the building permit for the accessory structure. 2)The applicants review and sign the "Liability Waiver" in regards to possible damage to the structure caused from snow plowing CSAH 6. 3)That the applicants sign the "Statement of Acknowledgment" that they understand that they are not to build fences, store personal property, or store other materials in the right of way. 4)The applicants avoid filling, draining or excavating any wetlands that may be present on the property. Motion carried 4:0.

Property Line Setback Discussion

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

C/B. Anderson said that he would like to know the reasons for the 100' setback. If it doesn't change that is fine, he just wants to know why it is 100'.

D. Monroe said that we either need to look at the property line setback or not allow 2 acre sites.

C/B. Anderson said that not all requests need to come here. Some of them do.

⁸Motion by S. Klair and seconded by D. Monroe to adjourn the June 26, 2006 Board of Adjustment meeting at 8:11 p.m. Motion carried 4:0.

Respectfully Submitted,

Kristi R. Gross

Secretary

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
JUNE 26, 2006

MINUTES

- ¹ APPROVE June 26, 2006 Board of Adjustment Agenda as amended. Motion carried 4:0.
- ² APPROVE May 22, 2006 Board of Adjustment as amended. Motion carried 4:0.
- ³ APPROVE the request for a variance variance to place a wireless communication tower 300' from a bluff impact zone instead of the required quarter mile (1,320'). Variance is for 1020' based on staff recommendation, findings of fact and the site visit. Motion carried 4:0.
- ⁴ APPROVE the request for a to build an accessory building 35' from the South property line instead of the required 100' setback based on keeping on the theme of the property and the area is more important than sticking to the letter of the law. He is doing the area a service by building in a place where it does not aesthetically detract. Motion carried 4:0.
- ⁵ APPROVE the request for a variance to build an accessory building 40' from the West property line instead of the required 100' setback (variance for 60') based on staff recommendation. Motion carried 4:0.
- ⁶ APPROVE the request for a variance to build an accessory building 50' from the east property line (50' variance) and 88' from the north property line (12' variance). Motion carried 4:0.
- ⁷ APPROVE the request for a variance to build an accessory structure 80' from the north property line instead of the required 100' (variance is for 20'). Motion carried 5:0.
- ⁸ ADJOURN the May 22, 2006, Board of Adjustment meeting at 8:05 p.m. Motion carried 5:0.