

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN
AUGUST 28, 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 Judy Fritzinger Mike McKay
 Randy Juliar Mike Wozniak

Absent:

¹*Motion by S. Klair seconded by J. Fritzinger and carried to approve the August 28, 2006 Board of Adjustment Agenda. Motion carried 6:0.*

²*Motion by D. Monroe seconded by R. Juliar and carried to approve the July 24, 2006 Board of Adjustment as amended. Motion carried 6:0.*

Staff Updates: M. Wozniak said that he would like to bring to the attention of the Board that at this point at the staff level and we will be working with the Planning Commission in the near future to be doing a comprehensive update of the zoning ordinance. There is a lot of housekeeping type changes to make it more usable and to update some of the legislative issues that have not been updated.

Conflict/Disclosure of Interest: None to be discussed.

James Hammer – Pt of the SW ¼ of Section 19 T112N R17W Cannon Falls Township. The request is a variance to create a side yard setback of 90' instead of the required 100' (variance for 10'), and a variance to split a dwelling on less than 35 acres in the A-3 Urban Fringe District.

Mr. Hammer is requesting two variances. The first is a variance to split a property creating a side yard setback of 90' instead of the required 100' (variance for 10'). The second is for a variance to split a dwelling on 2 acres instead of the required 35 acres in the A-3 Urban Fringe District (variance is for 33 acres).

Mr. Hammer owns property in Section 19 and 30 of Cannon Falls Township. His tax statements have always shown the dwelling to be located in section 30. Recently, Mr. Hammer was in the process of selling the dwelling and after the land was surveyed, found the house was in Section 19. He is now trying to split the dwelling so it can go to the buyer with the rest of the yard.

Mr. Hammer would like to sell the buyer 5.59 acres. Two acres would be with the house in Section 19 and the remainder in section 30. Section 19 is zoned A-3 Urban Fringe District. The A-3 district requires 35 acre lot size. Section 30 is zoned A-2 Agricultural District which only requires 2 acre lot size.

Mr. Hammer would like to have the 90' side yard setback so that the property goes to the fence line that is currently there. The township has stated that they feel this is a County matter and have told staff that they do not have any objections to the variances.

Findings of Fact

Subd. 1. In exercising its authority to review any order, requirements, decision or determination made by any administrative official, the Board shall not grant any appeal or variance 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:

- A. 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. **The parcel in Section 19 currently contains 7.88 acres. Splitting the dwelling on 2 acres would not allow for another building site at this time.**

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- B. 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, and that the granting of the variance will not alter the essential character of the locality.
There are no foreseeable adverse affects of granting the variance.

Subd. 2. In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. **Mr. Hammer is trying to correct an error and sell the dwelling with the remainder of the yard. The request is in harmony with the general purposes and intent of the official control.**

Staff Recommendation/Resolution

Based on the above findings of fact, staff recommends both variances 1) to split a property creating a side yard setback of 90' instead of the required 100' (variance for 10'), and 2) a variance to split a dwelling on 2 acres instead of the required 35 acres in the A-3 Urban Fringe District (variance is for 33 acres).

BOA Discussion

M. Wozniak presented the request.

Mr. Hammer said he was very surprised to see the house outside of the area that he had sold. He built on the berm in the woods to preserve the agricultural land. He originally was going to sell 5.33 acres, but the County said he needed a minimum of 2 acres in Section 19 so he went out to 90' from the house.

J. Fritzing said that the fence-line was not 90' from the house.

Mr. Hammer said that the fence line is 30' from the house and would not have met the 2 acre requirement if he split there.

J. Fritzing asked if he could go 100' on the other side of the house.

Mr. Hammer said he wouldn't have 5 acres left in section 19.

M. Wozniak clarified that if the zoning ever changed Cannon Falls Township requires 5 acre minimum for a building site.

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 6:0.

C/B. Anderson said that he is familiar with the area and the whole area is 5 acre parcels.

Mr. Hammer said all of the properties in the area are 5 acre parcels. Eventually it will all be developed.

M. Wozniak said that staff supports this because it goes with the area and it is possible that this area will be urbanized in the future.

S. Klair said that at this time he isn't planning on building another dwelling on the 5 acre property.

Mr. Hammer said no, that is why he wants to hold onto it. He does not want this developed.

³*Motion by D. Monroe and seconded by M. McKay to approve the request for a variance to create a side yard setback of 90' instead of the required 100' (variance for 10'), and a variance to split a*

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dwelling on less than 35 acres in the A-3 Urban Fringe District based on staff findings of fact. Motion carried 6:0.

Belle Creek Township – in SW Corner of S 1/2 of NW 1/4 Section 15 T111N R16W .06ac Hwy Ease, Belle Creek Township. The request is for a variance to build a handicap accessible ramp 40' from the south property line instead of the required 100' (variance is for 60').

The federal accessibility requires the town hall to be accessible to all people in order for it to be considered a public polling facility for elections. The Township is trying to come into compliance before the Primary's which are September 12, 2006. The ramp could go north, but would hinder turnaround space near the shed that is located on the property.

Findings of Fact

- Subd. 1. In exercising its authority to review any order, requirements, decision or determination made by any administrative official, the Board shall not grant any appeal or variance 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:
- A. 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. **The ramp is a necessity to meet federal polling location regulations.**
 - B. 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, and that the granting of the variance will not alter the essential character of the locality. **The surrounding property is agricultural land. There are no foreseeable adverse affects of granting the variance.**
- Subd. 2. In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. **The proposed location is the most logical for the accessibility ramp. If the ramp were to go north it would hinder the use of the shed for the township. The request is in harmony with the general purposes and intent of the official control.**

Staff Recommendation/Resolution

Based on the above findings staff recommends approval of the variance to build a handicap accessibility ramp 40' from the south property line instead of the required 100' (variance is for 60').

BOA DISCUSSION

M. Wozniak presented the request.

Steve McNamara and Rich Buck said that they have to add the ramp and they are too close to the property line.

M. Wozniak said that staff recommendation was to recommend approval.

J. Fritzinger stated that this is the only location they could go.

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K. Gross stated that if they tried to go north there is the LP tank and the power pole. There are many obstacles.

C/B. Anderson opened the public hearing.

With no public comment S. Klair motioned and J. Fritzinger seconded to approve the closure of the public hearing. Motion carried 6:0.

⁴Motion by R. Juliar and seconded by M. McKay to approve the request for a variance to build a handicap accessible ramp 40' from the south property line instead of the required 100' (variance is for 60') based on findings of fact from staff recommendation. Motion carried 6:0.

⁵Motion by S. Klair and seconded by D. Monroe to adjourn the August 28, 2006 Board of Adjustment meeting at 7:35 p.m. Motion carried 6:0.

Respectfully Submitted,

Kristi R. Gross
Secretary

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MINUTES

- ¹ APPROVE August 28, 2006 Board of Adjustment Agenda. Motion carried 6:0.
- ² APPROVE July 24, 2006 Board of Adjustment as amended. Motion carried 6:0.
- ³ APPROVE request for a variance to create a side yard setback of 90' instead of the required 100' (variance for 10'), and a variance to split a dwelling on less than 35 acres in the A-3 Urban Fringe District. Motion carried 6:0.
- ⁴ APPROVE the request for a variance to build a handicap accessible ramp 40' from the south property line instead of the required 100' (variance is for 60'). Motion carried 6:0.
- ⁵ ADJOURN the August 28, 2006 Board of Adjustment meeting at 7:35 p.m. Motion carried 6:0.