

## BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN

JANUARY 24, 2011

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The meeting of the Goodhue County Board of Adjustment was called to order at 6:30 p.m. by Chair Judy Fritzingler in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Judy Fritzingler Mike Hinsch Mike Wozniak Rich Bauer Dennis Monroe  
Brad Anderson M. McKay

Absent:

***<sup>1</sup>Motion by R. Bauer seconded by B. Anderson and carried to approve the January 24, 2011 Board of Adjustment Agenda. Motion carried 6-0.***

***<sup>2</sup>Motion by B. Anderson seconded by D. Monroe and carried to approve the November 22, 2010 Board of Adjustment regular meeting minutes. Motion carried 6-0.***

**Conflict/Disclosure of Interest:** None to be discussed.

**Circle K Family Farms** – SW ¼ of NE ¼ & S ½ of NW ¼ of Section 23, T111N, R15W, Goodhue Township. The request is an appeal to staff's decision that the property does not qualify as a replacement building site, the relief requested is for the Board to determine the location a replacement dwelling site.

M. Wozniak presented the staff report, findings of fact and staff recommendation.

**Discussion**

Mike Kohlenhoffer and they didn't show up to the first meeting. They went back to the meeting several months later and all the board members were there and they support them.

Yon said that a dozer has moved the remnants.

Jeff Kohlenhoffer said that he has a letter from Mike Mahn who lives down the road and remembers a house from the 60's. Don Thomforde said that there was a Kurt Diercks who used to live there.

D. Monroe asked what entact means in his interpretation.

M. Wozniak said for us to determine it a building site there has to be a dwelling or a complete or reasonably complete foundation. Usually we'll give the benefit of the doubt, but then there are those that haven't had a house since the turn of the century. Sometimes you see the remnants like this where you see evidence of a outbuilding, a well, is that enough to assume there was a home there.

Jeff asked when do the photos not play a part.

M. Wozniak said that the photos would suggest that there was a building site.

M. Hinsch said he grew up near there and his neighbor took the house down in 1977.

Jeff said that they would board kids that went to the perocial school down the road, St. Johns.

B. Anderson shows that there is a defined farmyard, you are basing it on a defined farmyard and a dwelling foundation.

M. Wozniak said that in past request there are foundations, but it is unclear what the foundation was for. And in instances like these where there was clearly a farmyard.

M. Hinsch asked if they would be building a house there?

*C/J. Fritzingler opened the public hearing.*

No one present wished to speak for or against the request.

*After no further public comment it was motioned by B. Anderson and seconded by M. Hinsch to close public comment. Motion carried 6:0.*

M. McKay asked if you knew there was a building on the site would it change our recommendation.

M. Wozniak said that in administering the ordinance we can't clearly define the farmyard today, but the photos suggest otherwise. He said we have been pretty strict about meeting the criteria. We try to do it fairly by the book. If it is not clear that it meets two out of the three it comes to the Board if the applicant chooses to apply.

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M. McKay said the photos look like it was a farm site, and it is clear there was a dwelling would he reverse his recommendation. Does the evidence have to be there today. But the end goal is to support it was a farm site. If you ultimately can get there, then they would be eligible for a dwelling site.

M. Wozniak said if it satisfies the board that the evidence supports the intent that ordinance you can find reason to approve.

***3Motion by M. McKay and seconded by B. Anderson to approve the appeal to staff's decision that the property does not qualify as a replacement building site, and determine the location a replacement dwelling site based on the evidence brought forward and the photos showing the farmsite. Motion carried 6:0.***

**Gary Kendrick/Will Peterson** – NE ¼ of the NE ¼ of Section 4 T111N R17W, Leon Township. The request is for a variance to allow a permitted use (farm winery) to be built on a legal non-conforming tax parcel. The tax parcel contains 63.5 feet of lot width along a public road right of way instead of the required 100 feet (variance is for 36.5 feet).

M. Wozniak presented the staff report, findings of fact and staff recommendation

**Discussion**

D. Monroe said that there are 15 dwellings in the area.

M. Wozniak said that this would not qualify as a dwelling site.

B. Anderson said that the Township approved a variance, and 2 interim use permits and a conditional use permit.

J. Fritzingler asked what would be put on the property.

Mr. Peterson said that it would be related to farm winery that is allowed by the County.

M. Wozniak said that the County allows square footage of a building for wine production and tasting up to 10,000 square feet. Over that would require a conditional use permit. We consider it a permitted use.

J. Fritzingler asked how you come up with 63.5 feet.

K. Gross explained the equation used to determine the distance along the road.

J. Fritzingler asked how busy the road is.

K. Gross said that would be a question for the township.

B. Anderson said that there are a lot of people that live in that area.

Mr. Peterson said that the maximum would be 30x30 and 50x50, what he is looking at something smaller than that to support 20 acres of crop.

R. Bauer clarified that this is not a dwelling, it is a business, that is why we don't have to worry about the 12 per section.

B. Anderson said for the most part it is ag buildings.

*C/J. Fritzingler opened the public hearing.*

Tom Paasch owns land to the North. The variance is not suppose to make to property more valuable and the road approach is very bad. Gary could sell more land there and not need a variance.

M. McKay clarified that the reason for the variance cannot be financial. If he is granted a variance that is not what is being determined here.

M. Wozniak said that financial cannot be the sole basis for considering a variance.

M. McKay said that is a moot point we are not considering financial here.

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B. Anderson said that we cannot combine tax parcels across section lines to obtain the 100' frontage.

M. Wozniak said if you were to plat you could combine across the section line. For tax purposes the assessors do not want part of a metes and bounds subdivision in separate sections.

M. McKay asked where he plans for the driveway to be.

Mr. Peterson said where the existing driveway is.

M. Wozniak said that if the variance is granted one thing we would likely do is evaluate the access in the context of a building and address it accordingly with conditions on the permit. Another thing we would do is require a copy of an easement that grants them permission to use that segment of driveway through Mr. Kendricks property.

Mr. Peterson said that in the original purchase agreement the 100' of road frontage was accounted for.

Dan Lavotny said that the 63.5 feet if any one of you drove the road, ask children in the neighborhood what happens when you come over that hill. When you come over and you turn left. You are at a crest of the hill. Once if not twice a year he pulls someone out of the ditch. One year one time it will be a sad story for somebody, and it could happen to one of his customers.

M. McKay asked where his driveway was.

Mr. Lavotny said his driveway is bad enough.

Dan Carlson said that it is a blind corner and 4 people have gone in the ditch in the last 18 months.

Mr. Lavotny said that he knows the road and a lot of people don't.

B. Anderson said that all the signage north of there is Cannon Falls, they have to work together with Cannon Falls for better signage.

Mr. Peterson said that it is not in his interest for people to be zooming by he would not be opposed to signs.

Mr. Carlson asked what the farm winery license allows them to do in the state of MN?

M. Wozniak said that there are state rules that govern. They place limits on farm wineries and establish limits. In the County ordinance we refer to those. Larger farm wineries are subject to a conditional use permit. That is not what we are here discussing today.

Mr. Carlson said that having a farm use winery is of concern for the usage of that road.

M. Wozniak read from the ordinance allowing farm wineries. He added that it is anew industry in our area. We have two farm wineries that are operating under those rules in Goodhue County.

Mr. Carlson brings his point that you can have up to 50,000 gallons per year, you can give free samples and you can have on and off sale without a license. You are dealing with a hill into the property. His point is that alcohol is involved and the road is dangerous you are promoting an accident or injury by granting the variance. He doesn't want his teenage kid dead. The road is not meant for a winery. Buy the property grow grapes and haul them into town. The property is not there to support that amount of traffic. Putting up signs is not the answer. You are here to protect and serve the community and by allowing it you are not protecting anybody. How often would there be events.

M. Wozniak said there are limits in the ordinance. We have another section that addresses agricultural tourism activities and it puts parameters on events. If the Board has any reserves on the access we can ask for comment from the engineer. What we are considering here is granting an exception to that standard. If the desire would be to build an agricultural building. The anticipated use of the land may raise some concerns for traffic safety. Issues relating to the use and implications to safety were looked at extensively. We couldn't find any higher rates of drunk driving due to the numerous farm wineries across the state of MN and across the country. This is not a brand new issue.

Mr. Carlson said that growing grapes is not the issue. Before you vote on it come and look at the road. Someone is going to die on the road.

M. Wozniak said that he is familiar with the road, he knows the road.

Mr. Carlson said you cannot see anything. He is all for growing the grapes, but as far as the public traffic it is asking for disaster.

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Mr. Peterson said that he is glad to hear this, but as far as traffic safety, it is not in his best interest to upset anyone that is already there. It is also not in his best interest to bring harm to his guests. What the identified at the township was signs.

Mr. Carlson said that if the county took over the road widened the road and put in a turn lane.

M. McKay said that the public was almost dead wrong in almost every issue. We would go to the county experts. We need to call time out on that issue. We have the option to call that out and ask the county engineer to look at it.

M. Wozniak said you may wish to table the request.

M. McKay said that it would be dangerous for us to put ourselves in that position. We would get some expert opinion.

Teresa Carlson said there is a pipeline there, and we were told we couldn't put a driveway over the pipeline.

Mr. Peterson said that he knew the pipeline was there, he was told the pipeline didn't impact the property. He asked if the pipeline was put in.

Mrs. Carlson said it is there.

M. Wozniak said that farm wineries can be found in Article 11 of the County Zoning Ordinance.

*After no further public comment it was motioned by M. McKay and seconded by R. Bauer to close public comment. Motion carried 6:0.*

R. Bauer said he agreed with Mike and we should have our engineer look at it.

M. Wozniak said that when a concern arises we can refer these items to the public works department to review and make comments. If it would require a more substantive traffic study he would recommend that. But typically Greg would be willing to take a look at it.

C/J. Fritzingler asked if the applicant has to agree for it to be tabled.

M. Wozniak said that it is the county's right to extend the decision out another 60 days.

B. Anderson said that part of the review process for the building permit you would refer it during that process. There have been variances granted and then nothing is built.

M. McKay said that the applicant has an option to defer it or to make a decision.

Mr. Peterson said he has until March to make it go through. As far as grape growing nothing can happen for 3-5 years. It is his goal to have it on-site locally grown locally sourced. Also the winery on the property is part of the business plan. If he can't he doesn't want to purchase the property.

M. Wozniak asked if he had a goal.

Mr. Peterson said 500-1000 cases total and that is pushing it. Very small scale.

M. McKay asked M. Wozniak said if he could spend a minute explaining his options.

M. Wozniak said that this is a consideration of the width access and not whether this particular use is allowed. Personally what he feels needs to happen is that the road needs to be addressed.

Mr. Peterson said he would rather have it tabled. He works with a traffic safety group in Minneapolis.

B. Anderson said that it may show that the two townships need to make an adjustment whether you do this or not.

***4Motion by M. McKay and seconded by R. Bauer to table the variance to allow a permitted use (farm winery) to be built on a legal non-conforming tax parcel based on the finding of fact as stated in the application. Motion carried 6:0.***

**Staff Updates:**

M. Wozniak said that the discussion of the A-3 districts are ongoing and the Planning Advisory Commission has formed a sub-committee. The idea was to start with a small city, so we are starting with Dennison which has interesting characteristics. Although they weren't responding specifically to the development proposal in the A-3

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zone for near Cannon Falls was that they were not inclined to allow subdivisions smaller than 35 acres with private community systems.

***5Motion by M. McKay and seconded by M. Hirsch to adjourn the January 24, 2011 Board of Adjustment meeting at 7:55 p.m. Motion carried 6:0.***

Respectfully Submitted,

Kristi Gross

Secretary

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**MINUTES**

<sup>1</sup> APPROVE the January 24, 2011 Board of Adjustment Agenda. Motion carried 6:0.

<sup>2</sup> APPROVE the November 22, 2010 Board of Adjustment regular meeting minutes as amended. Motion carried 6:0.

<sup>3</sup> APPROVE the appeal to staff's decision that the property does not qualify as a replacement building site, and determine the location a replacement dwelling site based on the evidence presented showing that there was a dwelling and the photos that show a farmyard. Motion carried 6:0.

<sup>4</sup> TABLE the variance to allow a permitted use (farm winery) to be built on a legal non-conforming tax parcel based on the finding of fact as stated in the application. Motion carried 6:0.

<sup>5</sup> ADJOURN January 24, 2011 Board of Adjustment meeting at 7:55 p.m. Motion carried 6:0.