

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

Present: Judy Fritzingler Stanley Klair Dennis Monroe Brad Anderson Lisa Hanni

Absent:

B. Anderson said he would like to make a few comments at the end.

*<sup>i[1]</sup>Motion by S. Pettit seconded by B. Anderson and carried to approve the November 28, 2005 Board of Adjustment Agenda as amended to add a commentary at the end. Motion carried 6:0.*

*<sup>ii[2]</sup>Motion by J. Fritzingler and seconded by D. Monroe and carried to approve the October 24, 2005 Board of Adjustment Minutes. Motion carried 6:0.*

Staff Updates:

L. Hanni said that a couple of Ordinance changes addressing kennels and accessory buildings were approved by the County Board. Retreats were tabled until the December 8<sup>th</sup> meeting. The Subdivision Ordinance and Regulated Animals Ordinance will be discussed at the Committee of the Whole meeting on Dec. 20<sup>th</sup> at 1 pm. Information is available on our website. K. Gross will be off on leave, so she will be not be here for the January meeting, but she might return for the February meeting.

B. Anderson asked what kind of changes were being proposing for the Retreat Center Ordinance.

L. Hanni said that one of the concerns was that the patrons of the retreat center wouldn't know what the property boundaries were, so they were proposing to put up boundary markers. The other concern was with the length of stay.

B. Anderson asked if we had any length of stay requirements at campgrounds.

L. Hanni said she thought we did. You cannot make a camper a permanent residence.

Conflict/Disclosure of Interest: None to be discussed.

**Vernon Buscho** – Pt of SE ¼ of SE ¼ of Section 6 T109N R18W Kenyon Township. The request is a variance to build an addition to a dwelling 66' from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 34').

**STAFF REPORT:**

The parcel in question is 2.28 acres. The current location of the dwelling is closer than the required 100' setback. The variance is to the west property line. The addition is for a double car garage and a family room. The garage would be the closest portion to the property line. The drainfield runs to the north of the house. Kenyon Township has approved the request.

Based on the findings of fact, staff recommends approval of the request for a variance to build an addition to a dwelling 66' from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 34'): The addition is a reasonable improvement on the property. The existing layout of the property does not allow the applicant to build the addition in a location that meets the required setbacks. The hardship is not created by the current property owner.

#### BOA DISCUSSION:

Mr. Buscho stated his request.

S. Pettit said that they are taking the old garage off. There is an existing privacy fence. It is her understanding the affected neighbors don't have any problems with it.

B. Anderson asked how old the house is.

Mrs. Buscho said that it was built in 1933 and moved onto the property.

C/S. Klair asked if they were building onto the back of the house also.

Mrs. Buscho said they are.

C/S. Klair asked if it was a double garage they were building on.

Mr. Buscho said yes.

M. McKay asked if they meet the 100' setback currently.

Mrs. Buscho said it does not meet the Ordinance.

C/S. Klair clarified that the current dwelling was 96' from the property line.

Mr. Buscho asked if there was an ordinance in the 60's when the house was moved onto the property.

K. Gross said it could have been 30'. The last ordinance had a setback of 30' to the property lines.

*C/S. Klair opened the public hearing.*

Lou Schmidt said that they approved the variance at the township level. Neither house could build on reasonably without a variance. This is a good improvement on the property and will be an asset to the community.

*Moved by B. Anderson and seconded by S. Pettit and carried to approve the closure of the public hearing. Motion carried 6:0.*

M. McKay asked S. Pettit what the hardship was.

S. Pettit said that the way the lot lies and the way the house sits, it is already not in compliance, and it is only going to be a value to do what they are doing. The lay of the land and where the septic is this is the only way to put an addition on.

*iii[3] Moved by M. McKay and seconded by D. Monroe to approve the variance to build an addition to a dwelling 66' from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 34') based on the findings of fact stated above. Motion carries 6:0.*

B. Anderson thanked Mr. Schmidt for speaking on the behalf of the Township.

**Frank Otto** – Lots 15 & 16 Block 2 Oxford Oaks T112N R18W Stanton Township. The request is a variance to build an accessory structure 15' from the public road right of way of 59th Ave instead of the required 25' (variance is for 10').

#### STAFF REPORT:

Mr. Otto is looking for an additional storage area. He currently has a two-car garage and a small shed on his property. He is looking to build another two-stall garage.

The proposed location adjoins the existing driveway. If he were to meet the required setbacks he would need to cut into the existing cement slab or build on the other side of the house. Stanton Township has approved the request.

Based on the findings of fact, staff recommends approval of the request for a variance to build an accessory to build an accessory structure fifteen (15) feet from the public road right of way of 59th Ave instead of the required twenty-five (25) feet (variance is for 10'): An accessory building is a reasonable improvement on the property. The existing layout of the property does not allow him to build the garage in a location that meets the required setbacks. The hardship is not created by the current property owner. The variance is to a township road right of way and the township has approved the request.

#### BOA DISCUSSION

Mr. Otto stated his request.

C/S. Klair clarified that he would be 15' from the road right-of-way.

S. Pettit stated that we looked at what they are requesting. The township granted a variance to the setback to the township road. She couldn't see where else they would put it on their lot.

M. McKay asked if it was part of the agreement with the township to remove the trees.

Mr. Otto said that they would be 15' from the electric line, and he would be removing the trees to increase the visibility. He checked with the County and he only needs to be 10' from the electric line.

B. Anderson said that in the comments the amount of the request was different. Is the township ordinance different?

Mr. Otto said that the township had 60' setbacks from both roads.

D. Monroe asked if they will still have two driveways.

Mr. Otto said they would remove the smaller one. The garage would be there.

L. Hanni asked if he met the setback from the other road.

K. Gross said he did. He moved the site back to meet township requirements and so it met our ordinance.

Mrs. Otto passed around letters from the neighbors supporting the request.

*C/S. Klair opened the public hearing.*

Robert Benson, Stanton Township Supervisor, said that they have worked on this for quite awhile, and this is really the only place they could put it.

*Moved by B. Anderson and seconded by J. Fritzinger and carried to approve the closure of the public hearing. Motion carried 6:0.*

*<sup>iv[4]</sup>Moved by B. Anderson and seconded by J. Fritzinger to approve the variance to build an accessory structure 15' from the public road right-of-way of 59th Ave, instead of the required 25' (variance is for 10') based on the findings of fact of the meeting. Motion carried 6:0.*

**Patrick Smith** – Pt of NE ¼ of SW ¼ Section 24 T109N R15W Pine Island Township. The request is a variance to build an accessory structure fifteen (15) feet from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 85').

#### STAFF REPORT:

The property in question slopes behind where the current dwelling sits. The east side of the property contains the well. The proposed location for the accessory building is the most practical location on the property. Pine Island Township has approved the request.

Based on the findings of fact, staff recommends approval of the request for a variance to build an accessory building fifteen (15) feet from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 85'): An accessory building is a reasonable improvement on the property. The topography of the parcel does not allow for the accessory building to meet the required setbacks. The hardship was not created by the current landowner.

#### BOA DISCUSSION:

Mr. Smith stated his request.

S. Pettit said they have a lot of property but the way the ground sits the only place to put it is where they are proposing it. There is a corn field they would be getting close to, but the drainage shouldn't be an issue to where they would be impeding on it.

L. Hanni clarified the amount of the variance.

Mr. Smith stated he would be 30' from the property line. It would be a variance for 70'.

B. Anderson asked when the house was built.

Mr. Smith said 4 years ago.

M. McKay asked if there are any letters from the neighbors.

Mr. Smith said he has spoken to his neighbors and they don't have a problem, but he doesn't have any letters.

B. Anderson asked when the ordinance changed to 100'.

L. Hanni said the parcel of record expired in June of 2004.

*C/S. Klair opened the public hearing.*

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

*Moved by D. Monroe and seconded by B. Anderson and carried to approve the closure of the public hearing. Motion carried 6:0.*

B. Anderson asked if he built the garage where he planned to build the garage when he built the house if he would have needed a variance.

L. Hanni said probably not.

<sup>v[5]</sup>***Moved by B. Anderson and seconded by J. Fritzingler to approve the variance to build an accessory structure 30 ft. from the west property line, instead of the required 100 ft. setback in an A-1, Agricultural Protection District (variance is for 70 ft.) based on the findings of fact. Motion carried 6:0.***

**Alan Vaught** – Pt of SW ¼ of NE ¼ Section 5 T112N R16W Vasa Township. The request is a variance to build an accessory structure fifteen (15) feet from the west property line instead of the required 100' setback in an A-2 Agricultural District (variance is for 85').

#### STAFF REPORT:

The property in question slopes around the dwelling. The proposed location is the most practical location on the property. There is lower lying land near an existing barn, but Mr. Vaught said that area has water run-off issues. Vasa Township has approved the request.

Based on the findings of fact, staff recommends approval of the request for a variance to build an accessory structure fifteen (15) feet from the west property line instead of the required 100' setback in an A-2 Agricultural District (variance is for 85'): An accessory building is a reasonable improvement on the property. The existing layout of the property does not allow him to build the garage in a location that meets the required setbacks. The hardship is not created by the current property owner.

#### BOA DISCUSSION:

Mr. Vaught stated his request.

S. Pettit said that the property has rolling hills and this is the most logical location.

B. Anderson clarified this is a 10-acre parcel.

S. Pettit said that was her understanding.

C/S. Klair asked if it was wooded.

Mr. Vaught said that it is right next to a wooded area.

C/S. Klair asked what the building would be for.

Mr. Vaught said it would be for cars. Mr. Vaught said they lost some land due to the GPS property line. He would have been farther from the property line a few years ago.

M. McKay asked what neighbors they have talked to.

Mr. Vaught said that he spoke with Ronald Clemens, and he didn't have a problem with it.

*C/S. Klair opened the public hearing.*

Jeff Clemens said that they tried to build a house, and Mr. Vaught was always against them, so he is dead set against this variance.

Mike Olson said that he is also opposed—they should have planned better when they built their house.

Richard Leary said he is down the road a little ways and represents his father. He said that Ronald Clemens had expressed a concern and totally opposes this building. He was under the impression that Mr. Vaught owned 80 or 90 acres. In checking, he found out that the property was split, and there is an additional 70 acres in a trust. The section is full and when Mr. Vaught built his house, his old house wasn't suppose to be used as a residence anymore and now some relatives are living in the building. There are issues on hunting and setbacks from residential buildings. It's not only infringing on the property line, but on the neighbors' ability to use their land.

Will Ziemer asked what would happen when he wants to build a garage too close to the property line.

Ralph Clemens said that they have been fighting with Mr. Vaught over property lines, and he strongly opposes the variance.

*Moved by B. Anderson and seconded by S. Pettit and carried to approve the closure of the public hearing. Motion carried 6:0.*

Mr. Vaught said that they know there is some bad feelings because he opposed Jeff Clemens' request with other neighbors. The issue is that he would have been able to build under the grandfather clause. It is easy to say get a bulldozer. He has had an engineer out to look at the site also, and this is the only logical spot. If he can't build it, he can't build it.

B. Anderson asked if the setback would have been 30' under the Grandfather Clause when he built the house.

L. Hanni said she believed so.

S. Pettit said her concern is Ronald Clemens, and he is the only one we haven't heard from tonight.

M. McKay asked if Ronald Clemens appeared at the township meeting.

Mr. Vaught said he did not. He has spoken with Mr. Clemens on two separate occasions, and he said he was fine with it.

S. Pettit said that Ronald Clemens is the only neighbor that is being infringed upon and he is the only one who has not said anything. It was her initial opinion that he was ok with it. He has had two opportunities now to voice his opinion and he has not done so. The lay of the land is the hardship. If they were to put it in the lower area they would be effecting the natural water drainage way from the hills. It would take a lot of water.

M. McKay asked if Ronald Clemens spoke at the township meeting.

Mr. Vaught said that he did not. They have spoke to him twice because they wanted to make sure he would be on board because they did not want to spend the money on a variance if he was going to oppose it. Mr. Vaught says that Mr. Clemens said that his family doesn't speak for him, and they should stay off of his land.

M. McKay asked about the township process and if Ronald Clemens was there.

S. Pettit said that Mr. Clemens has had two opportunities to voice his opinions. She thinks if he felt so strongly against it, he should have at least sent a letter.

B. Anderson asked if they could move it to be 30' from the line.

Mr. Vaught said that it is very tight and there would not be enough room to turn around if they moved it farther out.

M. McKay said that the legitimate point that was made is that it affects Ronald Clemen's property. If he was as vehemently against this, it would affect his opinion. Could we table it?

L. Hanni said you could table it until January.

M. McKay asked when they were planning on building.

Mr. Vaught said as long as the weather holds out.

B. Anderson said that if you look at the topography of that property it is pretty steep. That is the only site that works. We are here to look at this parcel, this request.

<sup>vii[6]</sup> ***Moved by B. Anderson and seconded by M. McKay to approve the variance to build an accessory structure 15 ft. from the west property line instead of the required 100 ft. setback in an A-2, Agricultural District (variance is for 85 ft.) based on the findings, site visit, and the fact the Ronald Clemens had opportunity to state opposition. Motion carried 6:0.***

M. McKay said his second was based on the fact that Ronald Clemens has had opportunity to voice his opinion, and if he was opposed there should be something in front of them.

**Beverly Sjoblom Estate** – W  $\frac{3}{4}$  of SW  $\frac{1}{4}$  Section 13 T111N R17W Leon Township. The request is an appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance.

#### STAFF REPORT:

The area in question contains a foundation and the remnants of a shed or grainery. There is also an existing windmill and well. The 1938 photos confirm that there were buildings in this area. The buildings are also apparent in the 1951 aerial photos.

These buildings are directly across the road from the existing farmyard. Farmyards have been split by roads in other instances. Staff has looked back through old plat books and this has been one parcel since before the 1930's. If there was a dwelling located here, it was most likely a second farm dwelling. Leon Township has approved the request. The township does not recognize replacement dwellings, but has granted a variance to the spacing between dwellings.

Based on the findings of fact, staff recommends denial of the request for an appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance: The proximity of the proposed replacement site to the existing farmyard and the fact that it has always been one parcel suggests that it was all part of the same farmyard.

#### BOA DISCUSSION:

Mr. Sjoblom said in September or October of 2004 they took some pictures with Joanne Wood. It was stated that this piece of property was a replacement site. A grandson of the estate is going to be purchasing this property, but will not be building for a few years.

B. Anderson said he was told by the zoning office that it was a replacement site, but evidently there was nothing recorded.

Mr. Sjoblom said they got a variance from the township for the spacing the township requires.

C/S. Klair asked if this was another house or if it was a second dwelling.

L. Hanni asked when the house was built.

B. Anderson asked what the zoning ordinance was in the 60's. The earliest ordinance he could get a hold of was 1965 and there is no mention of number of dwellings in the section. As far back as he can remember there were two residences.

L. Hanni asked what the foundation is.

K. Gross explains the layout of the property.

*C/S. Klair opened the public hearing.*

Bill Erickson said that Joe is their son, and they would like this to remain in the family.

B. Anderson asked what S. Pettit thought.

S. Pettit said that there is a definite foundation, there is a well, and there was rubble from the shed. The issue isn't that there was a house there. There obviously was, but what kind of residence was it? We wouldn't allow a second farm dwelling to be split off now.

L. Hanni said that she is not concerned with whether or not this was a second farm dwelling because this was back in the 50's and that was a different ordinance. Look at whether or not it is a replacement site. We have people testifying to remembering a dwelling. That is pretty good evidence there was something there.

Vicky Erickson explained the old pictures in the packet.

*Moved by B. Anderson and seconded by D. Monroe and carried to approve the closure of the public hearing. Motion carried 6:0.*

<sup>vii[7]</sup>*Moved by B. Anderson and seconded by S. Pettit to approve the appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance based on the findings that there is evidence that there was a homestead here.*

J. Fritzingler asked if they will need to split this off now.

K. Gross said they have the area surveyed already.

M. McKay asked if Mr. Sjoblom was the legal executor of the estate.

Mr. Sjoblom said that he is here for his brother because of bad weather in the cities.

*Motion carried 6:0.*

**B. Anderson**

B. Anderson spoke about a township meeting he had attended.

<sup>viii[8]</sup>*Moved by M. McKay and seconded by J. Fritzingler to adjourn the November 28, 2005 Board of Adjustment meeting at 8:40 p.m. Motion carried 6:0.*

Respectfully Submitted,

Kristi R. Gross

# MINUTES

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- <sup>i[1]</sup> APPROVE the November 28, 2005 Board of Adjustment Agenda as amended. Motion carried 5:0.
- <sup>ii[2]</sup> APPROVE the October 24, 2005 Board of Adjustment Minutes. Motion carried 5:0.
- <sup>iii[3]</sup> APPROVE the variance to build an addition to a dwelling 66' from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 34'). Motion carries 6:0.
- <sup>iv[4]</sup> APPROVE the variance to build an accessory structure 15' from the public road right of way of 59th Ave instead of the required 25' (variance is for 10'). Motion carried 6:0.
- <sup>v[5]</sup> APPROVE the variance to build an accessory structure thirty (30) feet from the west property line instead of the required 100' setback in an A-1 Agricultural Protection District (variance is for 70'). Motion carried 6:0.
- <sup>vi[6]</sup> APPROVE the variance to build an accessory structure fifteen (15) feet from the west property line instead of the required 100' setback in an A-2 Agricultural District (variance is for 85'). Motion carried 6:0.
- <sup>vii[7]</sup> APPROVE the appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31, of the Goodhue County Zoning Ordinance. Motion carried 6:0.
- <sup>viii[8]</sup> ADJOURN November 28, 2005 Board of Adjustment meeting at 8:40 p.m. Motion carried 6:0.