

BOARD OF ADJUSTMENT
MINUTES OF APRIL 28, 2003
GOODHUE COUNTY JUSTICE CENTER
454 WEST SIXTH STREET RED WING MN 55066

The Goodhue County Board of Adjustment was called to order at 5:30 p.m. by Chairman Richard Sviggum in the Goodhue County Justice Center Building located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Richard Sviggum Stanley Klair Conrad Rapp Darwin Fox Brad Anderson
Lisa Skipton Joanne A. Wood

Darwin Fox made a motion to approve the April 28, 2003 agenda. Seconded by Brad Anderson. Motion carried 5:0.

Introduced new member, Brad Anderson from Leon Township.

Elect Vice-Chair. Stanley Klair made a motion to nominate Darwin Fox. Conrad Rapp seconded the motion to unanimously nominate Darwin Fox. Motion carried 5:0.

Conflict / Disclosure of Interest – None to be disclosed.

Cory Wiebusch – SE ¼ of SE ¼ & SW ¼ of SE ¼ of Sec 18, T111N, R14W, Belvidere Township. The request is for an appeal to relocate a replacement site from the SE ¼ of SE ¼ to the SW ¼ of SE ¼, Sec 18 in Belvidere Township. (Tabled from September 2002).

Cory Wiebusch was present and explained the staff report explained his request. He said he would like to move the old building site for a better view.

Richard Sviggum asked how far he would like to move the site.

Cory Wiebusch said he is proposing to move the site roughly a couple hundred feet to the west. The existing house is next to a dry creek, until it rains. It is also by a steep hillside and they would like to move the site to the top of the hill and of course stay 30-ft from the hill. He said his sister would like to build her house there.

Richard Sviggum opened the meeting to the public. There was no one present to speak for against the request. One member of the Board of Adjustment was out to the site (Fox).

Conrad Rapp said they would like to move the building site for a better view.

Cory Wiebusch said the existing house is down in a hole and no one would want to live down there. The creek is next to the house and the creek floods. He said he would like to move the site to a better location.

Richard Sviggum asked about water coming into the basement.

Conrad Rapp asked about moving the 100-ft without going through a variance.

Darwin Fox said he and Lavon Augustine were out there. He explained the existing house is tucked against the hillside and has a creek running near it. He said Mr. Wiebusch would like to move the site to the top of the hill. He asked Mr. Wiebusch if they are proposing the house to be on the edge of the woods or in the woods. He said the dryrun is real close to the house.

Cory Wiebusch said the County rules require the house to be 30-ft from the hill, so that may put him on the edge of the field. He said he is working removing trees so the well drillers can come in and cap the old well. He said he is gradually going to remove the old buildings. He said there are the old house, barn, and a couple of little buildings there.

Stanley Klair asked about the driveway access.

Cory Wiebusch said they have two options for the driveway. He said he plans on selling at least a 100-ft strip to the west property line. They could build their driveway near the Schafer property line and follow the south property line all the way to the house. He said his sister has also been talking with Hirsch's to either have easement or purchase the land where the existing field road is located. He said Hirsch's have a driveway going through there now and would be a perfect spot for the driveway, however, the Hirsch's are not saying if they are willing to sell or allow easement.

Richard Sviggum asked Ms. Wood about moving the building site 100-ft and not needing to be here.

Joanne Wood said the Zoning Ordinance does not give a distance, however after reviewing building sites, allowing a 100-ft move does not usually change the character. She said this is a procedure, it is not established in the Ordinance. She explained that Mr. Wiebusch is asking to move the site at least 200-ft. She said she was out to look at the site and the existing

site was in a low spot. She said they did not walk down in there to see if there was room.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 2

Cory Wiebusch said he had applied for the appeal last fall, but hadn't picked the corn at that time and wanted to see what it looked like without the corn.

Conrad Rapp said he was out to the site last fall, but they didn't get out of the vehicle.

Joanne Wood asked if the proposed building site would be 400-500-ft to the west of the existing site.

Cory Wiebusch said it is hard to judge because of the hill. He said the existing site is limited by the ravine and the hill to the west.

Richard Sviggum asked about the feedlot and if there would be an issue.

Joanne Wood said replacement sites do not have a setback to feedlots.

Cory Wiebusch said Hinsch's live right up the hill from the existing site and is well within the 2000-ft. He said the existing site is 700-800-ft from Hinsch's feedlot.

Conrad made a motion to deny the request based on no hardship. Seconded by Brad Anderson. Motion carried 3:2 with Darwin Fox & Stanley Klair dissenting.

Findings: There are no special circumstances or conditions affecting the land referred to in the appeal that do not apply generally to other property in the same vicinity. The existing farmstead would be allowed a replacement site at the existing location and there are no special circumstances to allow the relocation.

Cory Wiebusch explained the driveway of the existing site is the only access he has to his back field. He drives right through the existing building site. He asked if he sold his building site, how would he get to his field. He said if he builds a different field road, it would be through the field and that is not saving farmland.

Joseph & Joan Skolte / Donald Mickelson – SE ¼ of NE ¼, Sec 21, T113N, R16W, Welch Twp. The request is for an appeal that this parcel would not qualify as a replacement site based on the definition under Article 2, Section 2, Subd 31 of the Goodhue County Zoning Ordinance.

Joan Skolte was present and explained she was coming back here for a little different request from last month. She explained they are trying to purchase 40 acres and the property had a potential building site based on the Grandfather Clause. Last month she applied for an appeal to the soils under the "Ten Year Parcel of Record", Grandfather Clause. The appeal was granted last month because of the gas line running through the allowed building site and the driveway length. She said the Township is not extending the Grandfather Clause and that would be a real problem for them because of their situation. She is asking the Board to consider allowing the same building site location but rather as a "Replacement" site. The realtor came to realize the language should be replacement rather than Grandfather site. By having the replacement rather than Grandfather, it eliminates the time restraints with the Township and the County. The Board approved it last month and Mr. Fox was out and looked at the site. She said the old building site is located in a low area and the allowed building site really is not feasible because of the gas line. She said the preferred site has a little higher CER rating, but is minimally higher.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox).

Richard Sviggum asked how far approximately the proposed site is from the old building site.

Joan Skolte said it is not any farther than the allowed Grandfather site. She said she wasn't prepared to answer that question in feet.

Darwin Fox said the requested building site is closer to the replacement site than the allowed Grandfather site. He said it appeared to be 300 +/- feet from the Grandfather site.

Joanne Wood asked what was left there besides the windmill.

Joan Skolte said there is a small foundation. She explained as you come into the property, first there is the old foundation and then you come to the windmill.

Darwin Fox said there is also remnants and the old grainy roof is still there.

Conrad Rapp said it is a little confused when the County's Parcel of Record expires in June 2004 and the Township has it expire June 2003. Conrad Rapp said it seems the dates are somewhat confusing here.

Darwin Fox said the Township is allowing the Parcel of Record to expire June 4, 2003, however, this request is dealing as a replacement site.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 3

Joan Skolte asked if she understood the difference between the Grandfather Clause and the Replacement criteria. She knows there is a time restriction on the Grandfather Clause but there is no time restriction on the replacement site. She asked if the appeal to the replacement follows the land.

Richard Sviggum told Ms. Skolte that was correct.

Joanne Wood explained the appeal stays with the land and is recorded on the abstract and would be recognized unless the Ordinance is changed to prohibit it. She said they can not guarantee a site indefinitely, but the replacement will give them a longer time period.

Darwin Fox made a motion to approve the appeal. Seconded by Stanley Klair. Motion carried 5:0.

Findings: There is evidence that a building site was located on this property. There are special circumstances or conditions affecting the land referred to in the appeal that do not apply generally to other property in the same vicinity.

Adam Bauer – Pt of NE ¼ of NW ¼, Sec 12, T113N, R16W, Welch Twp. The request is for a variance to build an accessory building 40-ft from the east property line and not the required 100-ft property line setback.

Adam Bauer was present and explained he would like to build a shed 40-ft from the east property line. The property was split in 1997 and the new ordinance requires 100-ft setback. He said the previous owner split a 100-ft strip of land for the neighbor, but since that time he has swapped the 100-ft strip to the west side of the property. He said he has pictures that he would like to put up. The main reason he is asking for the variance is because this is the best spot for the shed and the dryrun runs through the property. He is proposing a 30 x 50 ag type building. He said he owns 38-acres, but the picture shows a 3-acre parcel.

Richard Sviggum opened the meeting to the public. One member of the Board of Adjustment was out to the site (Fox).

Joanne Wood asked how much distance was between the house and the accessory building.

Adam Bauer said there is about 120-ft from between the house and the shed. He said if they go somewhat closer to the house, he would need to remove more trees. He said he originally wanted to ask for 30-ft from the property line, but by going 40-ft from the property line he will save two trees.

Jason Orloske was present and explained he shares that property line and does not have a problem with Mr. Bauer's request. He said removing less trees is better. He said he does not see a problem with the proposed location.

Conrad Rapp asked Mr. Bauer about the 100-ft strip of land on the aerial photo.

Adam Bauer said the 100-ft strip does not exist any longer on the east side; that was moved to the west side of the property.

James Notebaart was present and said he owns the 100-ft of land. He said Mr. Bauer traded 100-ft in an attempt to allow him a better access to his property to the north.

Stanley Klair asked if he would be building the shed on the 100-ft line.

Adam Bauer said the 100-ft strip is not there, however, that is correct.

Stanley Klair made a motion to approve the variance. Seconded by Brad Anderson. Motion carried 5:0.

Findings: A hardship was proven. The variance is in harmony with the general purpose 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 variance will not alter the essential character of the locality.

Jason Orloske – Pt of NE ¼, Sec 12, T113N, R16W, Welch Twp. The request is for a variance to build an accessory building

20-ft from the west property line and not the required 100-ft property line setback.

Jason Orloske was present and explained he would like to build a two car accessory building that is 26 x 26-ft. He explained his property is right next to Adam Bauer's property line. He said they split off five acres last year. He said he is very limited with the dryrun going through his property. If he can locate the shed 20-ft from the west property line, then he only needs to remove one tree.

Richard Sviggum opened the meeting to the public. One member of the Board of Adjustment was out to the site (Fox).
BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 4

Adam Bauer said Jason Orloske is very limited there and he has no problem with the request.

Darwin Fox explained that he and Lavon Augustine were down to the sites. He explained Mr. Orloske's property is very unique and there is only one location for the shed because of the house, dryrun and septic.

Brad Anderson made a motion to approve the variance. Seconded by Darwin Fox. Motion carried 5:0.

Findings: A hardship was proven. The variance is in harmony with the general purpose 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 variance will not alter the essential character of the locality.

Aaron Bauer – Pt of E ½ of NE ¼, Sec 30, T113N, R16W, Welch Twp. The request is for a variance to build an accessory building 10-ft from the west property line and not the required ~~100-ft~~ 30-ft property line setback.

Joanne Wood mentioned the request should be a 30-ft property line requirement and not a 100-ft requirement.

Aaron Bauer was present and explained the required setback should be a 30-ft setback and he is asking for a 20-ft variance to locate a shed 10-ft from the west property line. He passed out pictures of the proposed building. He explained the arrangement and where the doors would be located and that there would be 81-ft between the two buildings. The first 32-ft of the building would be used for his cattle. The rest of the shed would be used for his farm equipment, such as the manure spreader, tractors, etc. He said with the 81-ft setback between the two buildings, it allows him enough room to get around and in and out of the buildings. He explained the property slopes towards the road and then to the other direction and if he were to locate the shed in another location, he would need to add more fill. He said the parcel is not flat. He said the proposed site is the best spot for his cattle and would work out the best for him. He said he talked to his neighbors on the west and they have no problem. The nephew runs the land and they said they have no problem with crossing the line during the construction.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox).

Conrad Rapp asked if this section is zoned (A-1) zoning district. He asked Aaron Bauer if he has a feedlot permit.

Aaron Bauer said he believes he is zoned (A-1). He said he is registered for 16 animal units. He explained he has a manure spreading agreement with Les Anderson and those documents are registered with Goodhue County.

Richard Sviggum asked if he has cattle there now.

Aaron Bauer said he has had cattle there for 5 years. He said he registered with the County in 2000. He did contact the County and found out that he needs to fill out another form. The County Feedlot Officer thought it was a perfect application for what he is planning on doing.

Darwin Fox explained Mr. Bauer built a shed into the hill because of the slope, he drew on map to help the Board understand the property restrictions. He said due to the way the building sits and there is somewhat of a tree line and fence line, so it is a nice use of the property.

Aaron Bauer said he poured 10-ft high with 8-ft stud walls for that building. He said he needs to bring in some fill to get away from the runoff.

Darwin Fox made a motion to approve the 20-ft variance (shed to be 10-ft from the property line). Seconded by Stanley Klair. Motion carried 5:0.

Findings: A hardship was proven. The variance is in harmony with the general purpose 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 variance will not alter the essential character of the locality.

George Laqua Jr – Pt of S ½ of SE ¼ of NE ¼, Sec 13, T113N, R16W, Welch Township. The request is for a variance to create a parcel and build a dwelling on less than the required 35-acres in an (A-3) Urban Fringe zoning district.

George Laqua was present and explained he would like to split and build another dwelling by Munson Hill. He said the property is an existing 15.9-acre parcel located on a curve by the Treasure Island turnoff. He needs to split the property in half and move a home in.

Richard Sviggum asked if there was a home located on the property now.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 5

George Laqua said there is a home there and his sister lives there and is mentally handicapped. He would like to split the property in half or just enough to build. He said they would like to move in a rambler with a detached garage. He explained they have 10-acres in the woods and 5.9-acres are not woods. He said there is not much farm land left because the road (Highway 61) took about 4-acres.

Richard Sviggum opened the meeting to the public. One member of the Board of Adjustment was out to the site (Fox).

Bob Luhman was present and explained he is a property owner adjacent to this property. He said he has known the family since he was young. George's sister, Linda, lives there alone now since their folks died. He said Mr. Laqua is the sole care taker and it would be much to her advantage to have him closer. He said all the neighbors watch out for Linda, but she is a person that cannot be by herself. She can't read, write, or dial a telephone. He said there would be no better use of the land than having another house there.

Richard Sviggum asked about applying for health care.

Joanne Wood said the County Zoning Ordinance does allow a mobile home for health care reasons as a temporary situation where there is a need for health care by Conditional Use Permit. She said Mr. Laqua said it wasn't for medical care. She said they talked about a mobile home and applying for a conditional use permit, however, Mr. Laqua would rather apply for a variance to allow him to split and build a home.

Stanley Klair said it seems when they have allowed homes on less than 35-acres, they usually tie up the remaining acreage.

Richard Sviggum said they have allowed variances because it has been an existing parcel.

Conrad Rapp said they are asking to create another parcel.

Joanne Wood said Dan Bauer from the Township had stopped in the office and said the Township does not have a problem.

Darwin Fox said this is going to the Township Board Thursday night.

Joanne Wood asked Mr. Fox if the Township has an (A-3) zoning district.

Darwin Fox said the Township does not have an (A-3) zoning district, but the Chairman believes they do. He asked Mr. Laqua what was the intent of the old house.

George Laqua said when his sister passes away or moves out, they plan on demolishing the old building site.

Darwin Fox asked if they would be interested in putting a condition on the request. He said Mr. Laqua would continue to own the separate parcel.

Brad Anderson said it does not fit the second farm dwelling.

Lisa Skipton said the hardship is not with the applicant, but the land itself.

Darwin Fox said the highway took 4-acres from this property and it keeps getting smaller. He feels this would be a good use of the property.

Conrad Rapp asked if they could they could homestead where the buildings site right now, without creating a new parcel.

Darwin Fox asked Mr. Laqua if he could place the house closer to the existing house.

George Laqua said he plans on putting the house 660-ft from Anderson's line and 660-ft from Berg's line.

Conrad Rapp said he understands there are some difficulties there, but he does not see a hardship on the land.

Conrad Rapp made a motion to deny the request. Seconded by Stanley Klair.

Bob Luhman asked if it would be possible to leave the parcel as is and build another dwelling with the condition they would remove the old house when the need no longer exists.

Conrad Rapp said a temporary dwelling for health care reasons requires a conditional use permit through the Planning Commission and Board.

Motion carried 4:1 with Darwin Fox dissenting.

Findings: No hardship was proven. The variance is not in harmony with the general purpose 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 fact that the parcel contains 15.9 acres currently has a dwelling which is a reasonable use of the property.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 6

Dave Miller – Pt of NE ¼ of NW ¼, Sec 2, T111N, R15W, Goodhue Twp. The request is for a variance to build an accessory building addition 1344 sq ft over the 1200 sq ft limit and to locate that accessory building addition 10-ft from the property line and not the required 30-ft line setback.

Dave Miller was present and explained he would like to build a detached 24 x 82-ft shed 15-ft and 20-ft from the property line and not the required 30-ft property line setback. He said he would rather build a separate shed because adding onto the existing shed is becoming a big headache. He said he originally wanted a variance to be 10-ft from the property line, but by building a separate shed he only needs a variance to be 15-ft from the southeast / east property line and 20-ft from the northeast property line. He drew a new site plan and showed the Board. The new shed would be running the opposite direction as the existing shed. He explained the highway purchased some additional right-of-way and he needs to also watch that setback.

Joanne Wood asked if they are purchasing additional land.

Dave Miller said they originally talked about purchasing some land, but they decided not to purchase it. He said the shed would not work down there, so they scratched the idea.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox).

Lisa Skipton said Mr. Miller needs to go back to the Township for a different permit for the building change. She said the record needs to be straightened out.

Conrad Rapp made a motion to approve the variance to be 20-ft from the northeast / east and 15-ft from the southeast and to come to the County with a revised Township permit application to build a 24 x 82 accessory building. Seconded by Brad Anderson. Motion carried 5:0.

Findings: The variance will not alter the essential character of the locality. It appears the surrounding area is tillable and should not cause any conflict with the neighborhood for the setback. The variance is in harmony with the general purpose and intent of the official controls in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

Catherine & Brad Luebke – Pt of NE ¼ of NW ¼, Sec 2, T110N, R18W, Holden Township. The request is for an appeal that this parcel would not qualify as a replacement site based on the definition under Article 2, Section 2, Subd 31 of the Goodhue County Zoning Ordinance and to move the replacement site or an appeal that this parcel qualifies as a "Ten Year Parcel of Record" and to build a dwelling on land rated over 60 CER and not the required less than 60 CER under the "Ten Year Parcel of Record".

Catherine & Brad Luebke were present. Catherine Luebke explained they have a lot of documents and lumped four items together. They are first asking for an appeal to the replacement dwelling and if there is a replacement dwelling could they move the site. The other appeal request is if the parcel qualifies as a "Parcel of Record". She explained they purchased the land in 1992 and it was recorded in 1993. If the Board approves the appeal to the parcel qualifying as a "Parcel of Record", then they are asking for an appeal to the CER rating. She explained the farm has been in the family for five generations. Brad's grandparents owned the land. In 1980 to 1992 it was owned by Brad's grandmother, aunt, and mother. In 1992 Brad purchased the land from his mother, aunt and grandmother. There were many smaller parcels that were combined and took the attorney until 1993 to record them. She explained they would like to find a location on the property to build a home. She said they have worked with the Township since September to determine what would work and is in everyone's interest.

Joanne Wood said when she talked to Catherine and Brad about the land, she explained the well alone would not meet the

definition of the Ordinance. She gave them the option to apply for an appeal that this site is a replacement site and then they would like to move the site into the woods. The other appeal is because Brad purchased the property in 1992 and didn't record the deed until 1994. The survey and documents indicated it was owned but because of some title problems, it wasn't recorded until later. If the Board considers the parcel to qualify as a "Parcel of Record", the Luebke's would like an appeal to the CER rating. They requested to include all the requests at one time instead of coming in for each issue.

Conrad Rapp asked if there are any dwellings on this particular parcel.

Catherine Luebke explained the house and barn were split off in 1980, so there is no house on the parcel. She said in the 1950s there was a house, but now only the well exists with a distinct tree line around the former building site. She said the Township Planning Commission preferred the other site in the wooded area.

Joanne Wood said one of the maps included in the packet is from the 1930s and was intended to show there was a building site there at one time. They would like to move the replacement site into the woods if the Board is so inclined.

Conrad Rapp asked Ms. Luebke if the driveway wouldn't be longer for the other site.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 7

Catherine Luebke said the driveway would be longer and would be more complex. She explained that Brad planned another way to go through the woodland rather than the tillable.

Richard Sviggum asked where they are requesting the house.

Brad Luebke explained they would like the replacement site to be moved to the southwest corner within the treeline about 400-ft. If the Board would allow the Parcel of Record, they would like to build the house in the finger of woods. He explained there are two knolls and ravines back in that area.

Catherine Luebke said they favor the Parcel of Record site, but would need an appeal to the soil rating.

Richard Sviggum asked if there was documentation that indicated the property was purchased in 1992.

Joanne Wood said the survey was completed in July 1992, there was a farm lease agreement dated April 15, 1992, and the mortgage assignment was dated in 1992.

Brad Luebke said there were 13 parcels and the Attorney was working on cleaning the titles or he assumed the Attorney was doing the legal work to clear the titles.

Joanne Wood said she could not make the decision that this would qualify as a Parcel of Record.

Darwin Fox said the requested replacement site only has a well. The Parcel of Record site is in the middle of the woods. He said it is a tough situation out there, it is hard to know.

Richard Sviggum opened the meeting to the public.

Barb St. John, Holden Township Clerk, was present and explained Luebkes and the Township have been working on this most of the winter. She said the Township Planning held a public hearing in November. The first site is the replacement site in the clearing. Originally in 1998, the Township Board allowed a replacement site on that site, but now it has expired and they want to move the site. The Planning Commission did not want to grant the variance because the soil is rated high. The site on the south side has CER of 15 with slope. They wanted the Luebkes to have soil borings in that area where they would like the house to be located. She said their Ordinance preserves cropland and woodland. There is a separate 9-acre parcel with high CER. She said the Township has not granted any permits on this because there are too many options out there. She said the soil borings were not done yet and they wanted a definite site. As things progressed they discovered this was not actually a Parcel of Record. The Township has denied the request as of right now. She understands the County would allow the Luebkes to apply for an appeal to the soils.

Conrad Rapp asked what the soil borings are about.

Barb St. John said the Township has required soil borings in areas where the soil says 15 to 60. The soil borings determine the CER.

Conrad Rapp asked if they didn't take into consideration the slope of the land. What about the types of soils?

Barb St. John said using the soil borings has helped determine the soils and this decides where the delineation should be. The soil borings determine the type of soil. She said McGee & Betts out of Rochester has done some before. Sometimes the soil book indicates 15 or 75. She said looking at the soil you don't think it is 75 when you are a farmer.

Catherine Luebke said the hearing was November 30 and in Minnesota it is difficult to take soil borings. She said they decided to come to the County and will still do soil borings if needed. The Township also wanted to know what the County would do in this case, because their Ordinance does not address this.

Joanne Wood asked about the old house.

Brad Luebke said the old house was split in 1979 or 1980. He said he did sell a small piece of property in 1992 when he purchased the property. He said that small piece of property was transferred in 1992. He said he took ownership in 1992, but the Attorney was working on cleaning up all the small lots and it was not recorded until 1994.

Joanne Wood said the split occurred in 1992 when Mr. Luebke purchased the land, but they did not record the big piece of property until 1994. Apparently it was tied up because of the legal / title work. She said in essence the property was split in 1992.

One member of the Board of Adjustment was out to the site (Fox).

Conrad Rapp made a motion to approve the appeal to the "Ten Year Parcel of Record". Seconded by Stanley Klair. Motion carried 5:0.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 8

Findings: 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 fact that the property was surveyed in 1992 but not recorded until 1994 due to title problems. The intent was to purchase and record the sale of the property in 1992.

Conrad Rapp made a motion to deny the appeal of the replacement dwelling. Seconded by Darwin Fox. Motion carried 5:0.

Findings: There are no 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. No structures remain on the site which is in direct conflict with the definition of a replacement dwelling as outlined under Article 2, Section 2, Subd 31. There are no structures remaining on the site indicating there was a dwelling located on this site at one time. The site contains a well, however, the area surrounding the well is currently being tilled.

Conrad Rapp made a motion to approve the appeal to the CER under the "Ten Year Parcel of Record" to locate the house on soils rated greater than 60. Seconded by Darwin Fox. Motion carried 5:0.

Findings: Building in the wooded area preserves the tillable land. 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.

Errol Wright – Pt of SE ¼ of NW 1/4, Sec 11, T110N, R18W, Holden Township. The request is for a variance to build an addition to an accessory building that exceeds 1200 sq ft and to locate the accessory building 27-ft from the west property line and not the required 30-ft property line setback.

Errol Wright was present and explained he wanted to build onto his garage and it exceeds the 1200 sq ft limit and the garage will be 27-ft from the property line instead of the 30-ft setback.

Richard Sviggum opened the meeting to the public.

Barb St. John, Holden Township Clerk, was present and explained the Township Board approved this in March. She said the new survey indicated the property line was off by 3-ft requiring a variance from the Township. She said Mr. Wright has the Township permits.

Richard Sviggum said the property was an old school house site, so it was always an established site.

Lisa Skipton asked about the size of the structure.

Errol Wright said the addition will be 16 x 46-ft on the west side and 16 x 26-ft on the other side. He showed the Board a picture of the proposed addition and the existing garage. The garage will be added onto on two sides.

Darwin Fox made a motion to approve the variance. Seconded by Brad Anderson. Motion carried 5:0.

Findings: A hardship was proven. The variance will not alter the essential character of the locality. The surrounding area is tillable and the structure will not be visually out of character for the area.

Ryan & Dena Stulken – Lot 8, Block 2, Lake Byllesby, T112N, R18W, Stanton Twp. The request is for a variance to install an on-site septic system.

Ryan & Dena Stulken were present and Dena explained they are requesting three different variances. She said the current septic system is not in compliance. They would like to install a septic system 50-ft from the Ordinary High Water Mark (OHWM-Lake Byllesby) and not the required 100-ft setback and to be 5-ft from the attached garage and not the required 20-ft setback and to be 0-ft from the township road right-of-way line and not the required 10-ft property line setback

Joanne Wood reminded the Board this property is located along Lake Byllesby and are small lots and cannot meet all the setbacks. The property falls within the Shoreland area and when they try to obtain a building permit, they need to prove the septic system is in compliance. If the septic system is not in compliance, they need to bring the system into compliance. She asked if they are selling the property.

A letter from Environmental Health Department was enclosed in the packets. The letter stated the Inspector was out to the site and they agree with granting the variance.

Ryan Stulken said they purchased the property a year and a half ago and found out that the septic system was not in compliance. He explained due to the site, this is the only available site to locate the new septic system.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 9

Lisa Skipton reminded the Board this area was part of the Boundary Commission.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Stanley Klair made a motion to approve the variances. Seconded by Conrad Rapp. Motion carried 5:0.

Findings: A hardship exists. The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance will not alter the essential character of the locality. The existing dwelling must be allowed a septic system for the site to be considered as livable. The variance is in harmony with the general purpose and intent of the official controls in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control; and a letter from Environmental Health supporting the request.

Robert Tate / Donald Benson – W ½ of W ½ of SW ¼ & SW ¼ of NW ¼, Sec 25, T112N, R18W, Stanton Twp. The request is for a variance to build another dwelling within the ¼, ¼ density requirement in an (A-2) Agricultural zoning district.

Robert Tate was present and explained he would like a variance to build another dwelling on the 31-acres. He said he currently owns the adjoining property and will purchase the 31-acre property if he can move the building site from his 40-acres to the 31-acres. He said he has a purchase agreement. He explained his 40-acres has a building site under the "Ten Year Parcel of Record" which is fairly close to the large feedlot and would be more feasible to move the site. He said the soils are all under 60 CER where they would like to move the site to.

Joanne Wood said the 40-acre parcel is buildable under the "Ten Year Parcel of Record". She pointed out that there are two different owners on the parcels and they have never done that before. She said Mr. Tate is requesting to give up his building site on the 40-acre parcel to move it to the 31-acre parcel. She said moving the building site from the 40-acres is in an effort to retain the tillable land.

Robert Tate said the dwelling is allowed on soils that are close to the feedlot. The poor soil is on the lower part of the 40-acres.

Richard Sviggum opened the meeting to the public.

Tom Gorman was present and explained he represents Mr. Bill Robinson. Mr. Robinson owns the parcel right next door and lives on 322nd Street Way. He said Mr. Robinson was told this building site would be 800-1000-ft from his home. He has a silo, pole shed and outbuildings. There were 60 head of cattle at that site until he purchased the property in 1993. Mr. Robinson is down to 6 head of cattle since 1999, until that time he had 12 head of cattle. He had a registered feedlot since last Friday for 25 head of cattle and some horses. He said the site would be far too close to Mr. Robinson's feedlot.

Conrad Rapp asked what the date of the feedlot permit was.

Tom Gorman said Mr. Robinson came into his office and he directed Mr. Robinson to register his feedlot.

Robert Tate asked if the Grandfather Clause was subject to the feedlot setback.

Joanne Wood said the 40-acre track is considered a "Farm" under the Grandfather Clause / "Ten Year Parcel of Record" because it has at least 40-acres with at least 20 tillable acres. The only requirement a "Farm" has is the CER must be under 60. She said if you transfer the Grandfather right to the 31-acres, is the 31-acres not Grandfathered in and it would not be a parcel of record. She asked how many cattle were there now.

Bill Robinson was present and said he has 6 cows and 4 horses there now.

Joanne Wood said technically he is a feedlot now. She said under the Grandfather Clause the site would not be subject to a feedlot setback, but the 31-acres needs a 2000-ft setback.

Robert Tate said the setbacks are fairly similar.

Jim Dosedall said he just wants to express his disagreement of the possibility of a house going up behind the property. He said there are two homes within 1000-ft of his house now and he would like to keep it down to a minimum if possible.

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Stanley Klair asked if there is a building site allowed on the lower part of the 40-acre parcel.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 10

Joanne Wood said that was correct. She showed the Board an aerial photo and pointed out the area a home was allowed. She said there are 8 dwellings in the section, 12 allowed and the 31-acre parcel already has a dwelling in the $\frac{1}{4}$, $\frac{1}{4}$ and there is a feedlot.

Conrad Rapp asked if this was considered a feedlot before last Friday.

Joanne Wood said the County Zoning always looks at what is at the site; how many animal units are out there. She said she doesn't know if there has always been cattle or feedlots there. She explained the County considers a feedlot 10 animal units or more. She said she does not know if they weren't aware of it.

Bill Robinson said his Grandfather always had 50-60 head of cattle there. He said he purchased the land in 1999 and has averaged 12 head since then.

Stanley Klair said he cannot see a hardship here because the 40-acre parcel has a building site available.

Stanley Klair made a motion to deny the request. Seconded by Darwin Fox. Motion carried 5:0.

Findings: No hardship was proven. The plight of the landowner is not due to circumstances unique to the property and was created by the landowner. The 31-acre parcel contained a dwelling that was split off from this property thus making the $\frac{1}{4}$, $\frac{1}{4}$ unbuildable.

Carol Cunningham / Joanne Kaye – Pt of SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec 25, T112N, R18W, Stanton Twp. The request is for a variance to install an on-site septic system 50-ft from the Ordinary High Water Mark (OHWM-Cannon River) and not the required 75-ft setback and to be less than 10-ft from the road right-of-way.

Carol Cunningham and Tom Gysbers were present. Carol Cunningham explained she is the co-owner of the property and they have a faulty septic system that needs to be replaced for the sale of the property. She said they need a variance to the road and the river.

Tom Gysbers explained the well is 135-ft deep. He said the proposed septic location is the only spot to install the septic system. He said they will dig out the old septic system and install a new lift station. The old soil will need to be dug out. This will be classified as "Other System" by Environmental Health.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One

member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox said he and Lavon Augustine were out to look at the site and it is the only site for a septic system.

Darwin Fox made a motion to approve the variances. Seconded by Conrad Rapp. Motion carried 5:0.

Findings: A hardship was proven. The property in question cannot be put to a reasonable use if used under the conditions allowed by the official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance will not alter the essential character of the locality. The existing dwelling must have the opportunity to install an on-site septic system to render the property useable as a dwelling. The variance is in harmony with the general purpose 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.

Sean & Susan Murphy – Pt of E ½ of SW ¼ & Pt of NW ¼ of SW ¼, Sec 12, T111N, R18W, Warsaw Twp. The request is for an appeal to build a dwelling on land rated over 60 CER and not the required less than 60 CER in an (A-2) Agricultural zoning district.

Sean Murphy and Susan Murphy were present. Susan Murphy explained they would like to build a dwelling on soils rated SfC2=70 or SfD2=65 CER. She said they meet all the other requirements. She said they surveyed the property to determine the exact location because the Township requires a survey to prove the distance and slope.

Richard Sviggum opened the meeting to the public.

Stuart Blair was present and said he received a letter regarding this request and would like to know the location of the new dwelling.

Susan Murphy showed Mr. Blair an aerial photo and explained they have owned the house and property for five years. She explained they purchased the Logan's house. She explained they would be building on top of the hill. She said this will make a gorgeous building site. She said they don't use the property for any type of farming. They allowed the neighbor to cut the hay for his cattle. She showed Joanne Wood the exact proposed building location. She said they went to Warsaw Township Board in February and they were not aware they need an appeal, so they will be going back to the Township May 12. Jeff Beckman from the Township told them to go to the County for this request first.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 11

Sean Murphy said the previous owner had cattle and now the property has grown up in small trees and grass.

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox said this was a good use of the property because it is a unique piece of property they way it jogs around.

Conrad Rapp made a motion to approve the appeal to build on soils rated over 60 CER. Seconded by Darwin Fox. Motion carried 5:0.

Findings: There are special circumstances affecting the land, building, or use referred to in the appeal that do not apply generally to other properties in the same vicinity. The property contains woodland, however, it is not feasible to build on due to topography.

Charles Pasten – E660-ft of W ½ of SE ¼ & S1318.75-ft of E660-ft of W ½ of SE ¼, Sec 17, T111N, R18W, Warsaw Twp. The request is for a variance to create a parcel and build on less than the required 35-acres in an (A-3) Urban Fringe zoning district.

Charles Pasten was present and explained he owns two 20-acre parcels and would like to build another home on the south or back 20-acre parcel. There is a house on the north 20-acre parcel and he would like a new house on the south 20-acre parcel.

Joanne Wood said Mr. Pasten would create a parcel less than 35-acres by splitting the north 20-acres for the 100-ft of road frontage to access the south 20-acre parcel. She asked Mr. Pasten how long this has been a parcel.

Charles Pasten said since October of 1996.

Conrad Rapp said the new parcel would be created for the road frontage and driveway off the northern 20-acres.

Richard Sviggum asked Mr. Pasten if he farmed the land

Charles Pasten said it is in CRP.

Richard Sviggum opened the meeting to the public.

Sean Murphy was present and said he noticed the request was also in Warsaw Township and was wondering if it was in the same section.

Joanne Wood explained it was a different section.

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox made a motion to deny the request because there is no hardship.

Charles Pasten said the hardship is that his wife broke her back and they want to pay bills.

Seconded by Brad Anderson. Motion carried 5:0.

Lisa Skipton reminded the Board that the hardship has to deal with the land, not the owners of the land.

Findings: No hardship was proven. The variance is not in harmony with the general purpose 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.

Nicholas Lorentz – SW ¼ of SW ¼, Sec 15, T112N, R17W, Cannon Falls Twp. The request is for a variance to build another dwelling over the 12 allowed per section in an (A-2) Agricultural zoning district.

Nick Lorentz was present and explained he would like to build a home in Section 15 and there are currently 12 homes in that section.

Richard Sviggum asked if they have a home on this property already.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 12

Nick Lorentz said he owns 400 acres with a home in Section 22. Not all of the 400 acres is tillable. He said the proposed building location is being farmed now, but was pasture land with cedar trees and is rough country there. The proposed site is along Highway 19 and the State already approved the approach. The site is cedar trees and grass right now.

Conrad Rapp said he is somewhat familiar with this area and it may be farmed, but it is sand and rock with a tendency to erode a great deal.

Joanne Wood explained Mr. Lorentz owns 40-acres on the south side of County 8 that is buildable under the Grandfather Clause. She said he would like to transfer or reassign the 40-acre site to the proposed site along Highway 19 with a low CER. She asked if the Township approved this.

Richard Sviggum asked Mr. Lorentz if he understands if the Board allows the proposed site to be buildable, the 40-acres would not be buildable.

Nick Lorentz said he understands. He said the Township is concerned about maintaining 1000-ft and he needs to attend another meeting. He said they measured the site and the Township seems to be satisfied.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox made a motion to deny the variance to the 12 dwellings allowed per section, but allow him to transfer the Grandfather Site from the (28-015-1800) SW ¼ of SW 1/4 of Section 15 to (28-015-1100) SW ¼ of NW ¼. S econded by Conrad Rapp. Motion carried 5:0.

Findings: The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls. The variance is in harmony with the general purpose and intent of the official control. By reassigning the 40-acre site

to the 200-acre site no additional dwellings will be built on either property. The purpose of the reassignment is based on preserving higher tillable land.

Josh Dicke / James Althoff / Joseph Meyers – NE ¼ of SW ¼ & SE ¼ of NW ¼, Sec 4, T112N, R17W, Cannon Falls Twp. The request is for a variance to build another dwelling within the ¼, ¼ density requirement in an (A-2) Agricultural zoning district.

Josh Dicke & Jim Althoff were present. Josh Dicke explained he would like to build another dwelling within the ¼, ¼ density requirement and the CER value is 15 & 35. He said he feels this is the best use of the land and the Township approved the site. He showed the Board colored photos of the land and pointed out the proposed building site.

Richard Sviggum asked if Joe Meyers knows that ¼, ¼ would not be buildable.

Jim Althoff said they are working with Mr. Meyers.

Darwin Fox said he was out and walked to the site. He said they showed us all the rock and this will be a challenge. He said he is in favor of the reassignment because it will preserve tillable land.

Lisa Skipton asked where they were locating the house and driveway.

Josh Dicke pointed out the site and driveway on an aerial photo.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Lisa Skipton asked if they had something in writing from Mr. Meyers saying he is ok with the transfer / reassignment.

Josh Dicke said they could obtain something showing he is ok with this.

Joanne Wood said we should have something in writing from Mr. Meyers. She asked if he has been to the Township.

Lisa Skipton said he needs to get Mr. Meyers' approval to the County.

Conrad Rapp made a motion to approve the variance to build another dwelling in the NE ¼ of SW ¼ with the stipulation this is a reassignment / transfer from the SE ¼ of NW ¼ to the NE ¼ of SW ¼ and documentation will come along with this. Seconded by Brad Anderson. Motion carried 5:0.

Findings: The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls and the variance will not alter the essential character of the locality. By reassigning one ¼, ¼ to the other will not change the character of the locality. The same number of dwellings would be located in the section. The variance is in harmony with the general purpose 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.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 13

Michael Thorburn – Pt of SE ¼ of NE ¼, Sec 6, T111N, R17W, Leon Twp. The request is for a variance to build a garage addition closer than the required 60-ft road right-of-way line. To construct an attached garage 47-ft from the road right-of-way (Skunk Hollow Trail).

Michael Thorburn was present and explained he would like to build an attached garage to their house on Skunk Hollow. He said he noticed one error in the Staff Report, on the 15th the Township approved the variance. He explained the road angles and keeping the attached garage in line with the house will be 13-ft to close to the road.

Brad Anderson said the attached garage will be 70-ft from the center of the road which requires a 13-ft variance. Leon Township approved the variance.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox said with the slope of the backyard and the angle of the road and house, the applicants are limited. He said the request fits well with locality.

Stanley Klair made a motion to approve the variance . Seconded by Conrad Rapp. Motion carried 5:0.

Findings: A hardship was proven. The plight of the landowner is not due to circumstances unique to the property and was created by the landowner and the variance will not alter the essential character of the locality. The proposed attached garage addition will not change the character of the area and the proposed site is the best location based on the design of the dwelling. The variance is in harmony with the general purpose 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.

Christopher DeMarino – Pt of SW ¼ of NW ¼ & NW ¼ of NW ¼, Sec 29, T110N, R15W, Zumbrota Township. The request is for a variance to create a parcel and build a dwelling on less than the required 35-acres in an (A-3) Urban Fringe zoning district.

Chris DeMarino was present and explained he lives in Section 29. He said they are not requesting to build a house, but they would like to split a 40-acre parcel that he jointly owns with his brother. They would like to split the 40-acres into two 20-acre parcels. He said they have a house on the 17.2 acres and will not be splitting that parcel.

Lavon Augustine explained that Karen Squallice contacted her and explained that things have changed since they made application. They originally wanted to split 5 acres with the house, split the 40-acres into two 20-acre parcels and have one building site on the 20 & 12 acre parcel. Things changed and now the applicant is selling the house and 17-acres and only wants to split the 40-acres into two 20-acre parcels which are jointly owned by the two brothers. They are not asking for a building site.

Joanne Wood said the County received an e-mail from the City of Zumbrota.

Richard Sviggum asked if they realize they are taking away a building site by splitting the 40-acres.

Karen Squallice said they realize that. She said they want sole ownership of the 20-acres and Chris' brother is totally aware of it also.

Lisa Skipton asked how the brother will get back to the 20-acres.

Chris DeMarino said they have granted him an easement; they are just ironing out a few wrinkles.

Lisa Skipton read the e-mail from Ron Johnson, City of Zumbrota.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox made a motion to deny the variance to create a parcel and build on less than 35-acres. Seconded by Conrad Rapp. Motion carried 5:0.

Darwin Fox made a motion to approve the 40-acre split into two 20-acre parcels. Seconded by Conrad Rapp. Motion carried 5:0.

Findings: A hardship was proven. The variance will not change the essential character of the locality.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 14

William Siewert – Lot 7 in SE ¼ of Sec 10, T112N, R13W, Florence Township. The request is for a variance to the ¼, ¼, density requirement in an (A-2) Agricultural zoning district.

William Siewert was present and explained he would like to put another dwelling in the ¼, ¼ for his daughter. He handed out a site map to indicate where the site would be located on his property. He explained his property is limited because of the lake. He said he talked to a few of the landowners around them and they said they didn't have a problem with it. He said the Township approved the concept at the January 24 meeting. He said he would like to sell a small portion to his daughter to build a house.

Richard Sviggum asked if he owns two 17-acre parcels.

William Siewert said his brother lives right next to him and they both own about the same amount of land.

Stanley Klair asked how many homes were in the ¼, ¼ at this time.

William Siewert said there were a few homes.

Joanne Wood said this property adjoins the (R-1) zoning in Frontenac Station. She said there is floodplain in the area closest to the (R-1) zoning district.

William Siewert said the site is about 300-ft from the floodplain. He explained his parents had the family farm there and sold most of the land to the State Park but retained the two building sites where his brother and he currently live. He showed the Board a letter from Bob Kohrs that says he does not have any objections to the request.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox said we visited this site and it would be a nice spot, but the $\frac{1}{4}$, $\frac{1}{4}$ is filled.

Conrad Rapp asked Ms. Wood to explain why rezoning this property to (R-1) would not be appropriate.

Joanne Wood said there is some floodplain in the lower level and the house would need to be by the road on the higher ground. This property adjoins the (R-1) Suburban Residential zoning district. She said Mr. Siewert could apply for a change of zone to rezone the area to (R-1). She asked Mr. Siewert how many acres he would split off for his daughter.

William Siewert said he would split whatever he needs to. He said he thought about splitting two acres with the house.

Joanne Wood said Mr. Siewert would need to split everything from the south to the proposed house location, about 10 acres. She explained there is floodplain to the south, but that is the area adjoining the (R-1) zoning district.

Conrad Rapp said Mr. Siewert could rezone and split two acres for his daughter since the property is already next to the (R-1) zoning district.

Joanne Wood said that is certainly a possibility. She said we looked at it and debated if it were appropriate to have that much land be rezoned to residential.

Darwin Fox made a motion to deny the variance request because there was no hardship proven. Seconded by Brad Anderson. Motion carried 5:0.

Findings: No hardship was proven. The property in question can be put to reasonable use, the plight of the landowner is not due to circumstances unique to his property and is being created by the landowner. A dwelling is already on the 17.9 acre parcel which contains a reasonable use.

Tim Hattemer / Orville Hattemer – NE $\frac{1}{4}$ of Sec 16, T112N, R14W, Hay Creek Township. The request is for a variance to build an agricultural building 20-ft from the west property line and not the required 100-ft property line setback.

Tim Hattemer & Orville Hattemer were present. Tim Hattemer explained he would like to build an ag building 20-ft from the neighbors property line.

Orville Hattemer said the 20-ft could be a little flexible, however this is the only level place. The old house used to be in this exact location.

Joanne Wood asked if the property was split after 1993.

Tim Hattemer said it has not been split.
BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 15

Joanne Wood said we have 100-ft setback, but believes the 100-ft setback does not apply. This should be a 30-ft setback.

Orville Hattemer said he is selling his son the building site and they close next week. He said they have been to the Township and will go back to them to start the building permit process.

Joanne Wood explained the property line setback becomes 100-ft once the property is split. Currently the setback is 30-ft, but next week the setback becomes 100-ft and they probably are not constructing the building this week. She agreed that we should go by the 100-ft setback making the variance request 80-ft instead of a 10-ft variance.

Richard Sviggum opened the meeting to the public. There was no one present to speak for or against the request. One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Darwin Fox said the building is being proposed within the farmyard and is very restricted. There is a draw that goes off the barn and slopes away. The existing shed appears to be almost the same distance from the property line as the proposed shed. They are just extending the building.

Stanley Klair made a motion to approve the variance. Seconded by Brad Anderson. Motion carried 5:0.

Findings: The plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance will not alter the essential character of the locality. The proposed structure will be located in the farmyard and will be used for agriculture purposes. Since the area around the farmyard consists of steep slopes this is the best location for the structure. The variance is in harmony with the general purpose 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.

Christopher Hage – Lot 5, Block 2, Hidden Valley 3rd Addition, Wacouta Township. The request is for a variance to build a dwelling 21-ft from the road right-of-way line and not the required 25-ft setback and also a variance to build the dwelling and septic system within the bluff impact zone.

Chris Hage was present and explained he would like to build a dwelling in Wacouta and the septic system has to be placed within the bluff impact zone. He said the dwelling will be setback 25-ft from the road right-of-way and a variance is not needed.

Richard Sviggum asked Ms. Wood if Public Health was out there.

Joanne Wood said Jason Petersen from Environmental Health did not have a problem. Their (Environmental Health Department) ordinance does not look at bluff and they do not have a problem with it. She said the contractor has applied for the septic system permit and Jason Petersen is waiting for this Board to approve the variance before signing the septic permit. She said the lot is a small flat lot that drops in the back and sides.

Chris Hage said the lot is made up of either fill or is too steep for a septic system. He described the lot as level, dropping down, level again, and then dropping down again.

Joanne Wood said they moved the house away from the road right-of-way and is now closer to the 30-ft bluff setback.

Richard Sviggum opened the meeting to the public.

Charles Prah was present and explained he is a Wacouta Supervisor and they looked at this. He said the Township tries not to go through the variance process. He said the lot was a buildable platted lot before this Ordinance. He said there is a break in the bluff and this is the last platted lot in there. They will be in harmony with the neighbors and he supports the variance.

Bill Federbusch was present and explained he lives in Wacouta. He asked what the variance request was for. He was wondering what the thinking was.

Joanne Wood said the variance request is to build a dwelling and install the septic system within the bluff impact zone. She explained the Zoning Ordinance protects bluffs and there is no fill or excavating allowed within the bluff impact zone. The house is being proposed closer than the 30-ft setback to the bluff. She said this is the last lot in the subdivision and she believes it is the only lot that had this problem.

Bill Federbusch said he could not understand at the Township meeting. He said he had to do the site visit and was wondering what was natural and what wasn't

Joanne Wood said a variance will give Mr. Hage some flexibility to what he can do and what he can't.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 16

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Joanne Wood said the road setback is not an issue now, just the bluff impact zone.

Stanley Klair made a motion to approve the variance. Seconded by Brad Anderson. Motion carried 5:0.

Findings: A hardship exists. The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance will not alter the essential character of the locality. The parcel was created when the subdivision was approved in 1985. At that time bluffland regulations were not part of the Zoning Ordinance. The variance is in harmony with the

general purpose and intent of the official controls in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. The parcel is limited to an area where a dwelling would be allowed to build based on current setbacks due to topography.

Gary & Vanessa Jeske / Curtis & Marcella Hinrichs – S 3/8 of SW 1/4, Sec 16, T112N, R15W, Featherstone twp. The request is for an appeal to build a dwelling on land rated over 60 CER and not the required less than 60 CER under the “Ten Year Parcel of Record”.

Gary & Vanessa Jeske were present. Gary Jeske said they would like to build a home on the 60-acre parcel currently owned by Curtis & Marcella Hinrichs.

Richard Sviggum asked if the 60-acre parcel was all farmland.

Vanessa Jeske said there are two groups of woods and they would like to build their home in the woods. She said the site would not take out anyone’s view or change the character of the land.

Joanne Wood said they are requesting an appeal to build a dwelling on land rated over 60 CER under the “Ten Year Parcel of Record”. The ToD soil was rated 65 CER under the “Ten Year Parcel of Record” and is now rated 55 CER under the current Zoning Ordinance. She said the 60-acre parcel qualifies as a “Farm” under the “Parcel of Record”.

Richard Sviggum opened the meeting to the public.

Dave Schwartau, Featherstone Township Supervisor, was present and explained the Township has not granted a building permit yet. The application has not been voted on. It will be voted on May 13th. He said the site is a short distance from the Tipcke turkey barns. He said the Tipckes approached him on Saturday and were not sure what they could do because it is relatively close.

Richard Sviggum asked Ms. Wood if a “Farm” under the “Parcel of Record” requires a feedlot setback.

Joanne Wood said that a “Farm” does not have a feedlot setback. She asked if the Township was allowing the “Parcel of Record” to expire in June of 2003.

Dave Schwartau said yes.

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Conrad Rapp said the issue is the CER ratings and the proposed site is within the woods.

Darwin Fox said he viewed the site from the road. He said it looked like there may have been a building site there at one time and that is the location they are proposing to locate the new site.

Conrad Rapp made a motion to approve the request. Seconded by Darwin Fox. Motion carried 5:0.

Findings: 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. Under the current Zoning Ordinance ToD is rated at 55 CER and has been deemed to be marginal land. The applicants are preserving prime tillable soil.

Foison Investment / Larry Fox – Pt of N ½ of SE ¼, Sec 1, T112n, R16W, Vasa Township. The request is for a variance to create three parcels and build three dwellings on less than the required 35-acres in an (A-3) Urban Fringe zoning district.

Larry Fox was present and explained he would like a variance to build three lots within one mile of the City of Red Wing’s limit. He said Dave Johnson drew up a concept plan with one four-acre lot and two three-acre lots. This is on his 152-acre farm and he owns 74-acres in a different section. They plan on building one road to service the three lots.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 17

Richard Sviggum asked if the area is all wooded. How much is tillable right now?

Larry Fox said there will be some field that would be used for the building site and septic system because of the slope of the wooded area. He said there are 132-acres tillable and 20-wooded on the 152-acre parcel. He said the property goes into the Hardwood Forest and would make a good site where people can be outside and take advantage of the forest and have privacy. Originally there was 70-acres of the Hardwood Forest with this farm, but they gave it to the State in 1978. He said there is one lot that is short a few feet of frontage. He suggested they could make the cul-de-sac wider if necessary.

Richard Sviggum asked Ms. Wood if there are three buildable sites on the 152-acre parcel.

Joanne Wood said Mr. Fox has enough land for three building sites. She said there is only one proposed lot that would not meet the 100-ft road frontage. Her letter indicates they would need a variance for the one lots road frontage shortage.

Lisa Skipton said if the road is a private road, they only have 28-ft onto the public road.

Larry Fox said Vasa Township does not want to take over and be responsible for more roads. He said the bank is too steep for each lot to have a separate private driveway. He said he needs to install a culvert and build part of the road across tillable ground.

Richard Sviggum opened the meeting to the public.

Ray Cronk was present and explained he owns 11.5 acres of property just to the north of the proposed sites. He said he objects to the variance. They moved out there to get away. He does not want to look out the window and see three more houses. The culverts wash out and that creates a lot of problems for the road. He is asking the Board not to grant the variance. He said part of the road would cross tillable land and that would take out land that is currently being farmed.

Pete Dudley was present and explained he owns the hillside and all the lots would be looking down on his house. He said Mr. Fox does not have 100-ft of road frontage and about 1 or 2 years ago they were at the same type of meeting for Mr. Fox's son. The requirements are one house per 35-acres and that should include the house that his son is building right now. He said Mr. Fox will be taking out good farm land. He said Steve farms that land and has won awards for corn. This is good farm land.

Larry Fox said the Board tied up 35-acres for his son to build. He said the awards were not from this land.

Pete Dudley said the corn was planted in this field. He said it is not poor farmland. The hillside is very steep and erosion is a problem and concern.

Richard Sviggum said Mr. Fox potentially has 35-acres for each of the proposed building site.

Pete Dudley said there is only 100-ft of frontage on the west end where it adjoins the public road. He said there is a very big water issue. He said two years ago they were in the same meeting.

Charlene Dudley was present and explained her main concern is the water / erosion problem. The road is collapsing right now. The ditch is at least 5-ft deep. She said every time there is a rain, they have problems. She asked Mr. Fox what he is going to do in five years. She said there are other areas to build these homes. There is also a nasty curve and there are kids that ride bike between homes. She makes her kids stand back from the road because there are cars in the ditch by their driveway.

Mrs. Pearson was present and explained she lives at the bottom of the hill. She said the water and debris comes into their fields. The amount of rock destroys everything. She said that is not why they moved out there. They moved out there to be by themselves and for the good farmland.

Mariam Johnson was present and explained she is the co-owner of the farm that is on County 41 just before the place where these things are taking place. She said they have a fence line that is at the top of the hill and she would like to know how far away these changes would be from the fence line.

Larry Fox showed Mrs. Johnson on an aerial photo the exact location of the proposed three lots. He said the area is quite a ways away (over 500-ft) from her fence line.

Jerry Kohn was present and said he lives at the bottom of the hill. He thinks the building in the trees might be a good idea if they can sign something. He said the traffic is an issue because they drive fast and you can't see over the hill and the grain trucks cannot stop.

Mariam Johnson said she feels that the zoning rules and ordinances should be followed and it behooves us to maintain and follow the ordinances.

Pete Dudley asked about this section being within one mile of the City of Red Wing's limits.

Joanne Wood said the City of Red Wing's limits are to the northeast of Section 1. All sections within one mile around the City of Red Wing is zoned (A-3).

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 18

Tana Hovde was present and said she lives on the same side of the road as the Cronk's. The water is a big issue, traffic is another issue, and privacy is an issue.

Richard Sviggum said Mr. Fox has three 35-acre lots he can build homes on.

Ray Cronk was present and said if Mr. Fox has 35-acre lots, but he is asking for three homes on 10-acres. He asked if Mr. Fox is giving anything up. He said that is his concern. Will he continue to develop?

Richard Sviggum explained that Mr. Fox is asking to build the three homes that are allowed based on the one home per 35-acre rule, on 4-acre lots and continue to farm the remaining acreage.

Larry Fox said if this area were annexed into the City of Red Wing, he would develop the land.

Pete Dudley said they were here almost two years ago. Mr. Fox asked to block off a small portion for his son and now he is asking to build three more homes. A few years down the road we will be back here.

Richard Sviggum said if they allow these types of requests, the Board ties up the rest of the 35-acres. He said unless the rules were to change, Mr. Fox would not be coming in here in a few years.

Conrad Rapp said Mr. Fox has 152.3-acres and is allowed three additional building sites.

Pete Dudley said the City of Red Wing is not going to come out this way for years. He said there are thousands of acres in the City limits that are not farmland.

Eric Pearson said when the water comes off the hill, their fields are flooded. There are huge rocks and trees down in their fields. He asked what the three additional homes and driveway would do for the drainage.

Karen Pearson said their field is a swamp.

Joanne Wood said Mr. Fox could complete an erosion control plan with the Soil & Water Conservation District. She said they can contact the County Public Works Department.

Larry Fox said he plans on talking to Paul Kalass from the Soil & Water Conservation District. He said they can install a few small terraces. He said he needs to protect the road. He said he cannot control what goes beyond the road.

Charlene Dudley said Mr. Fox could not put three driveways in because they own most of that area. She said they have called the Township and County many times to repair the road.

Pete Dudley said he does not know if Mr. Fox has 100-ft of road frontage for each site.

Larry Fox said he owns ½ mile on the County Road.

Joanne Wood showed Mr. Pete Dudley an aerial photo of Mr. Fox's property along County 41.

One member of the Board of Adjustment was out to the site (Fox). *There was a motion made, it was seconded, and carried to close the public hearing.*

Conrad Rapp asked Ms. Wood that assuming if Mr. Fox has adequate road frontage and the number of acres are adequate for the three building sites, he could come in for individual building permits.

Joanne Wood said the minimum lot size is 35-acres and requires at least 100-ft of frontage onto a public road. We also look at the slope of the bluff. If there is a water problem, he will need to submit an erosion control plan.

Conrad Rapp said with some creative drawing, Mr. Fox could hook these lots up to 35-acres. He asked if the road frontage variance would need to be part of the motion.

Joanne Wood said Mr. Fox only has 28-ft on the road for one lot.

Lisa Skipton asked what the City of Red Wing thought.

Joanne Wood said she hadn't heard from the City of Red Wing. She said Goodhue County Public Works would require a driveway permit for the proposed road.

Larry Fox said he is trying to conserve as much tillable land as possible and utilize the waste land. He said he needed to use some good flat land for the homes and the septic, but it is minimal compared to 35-acres for each home. He feels he is utilizing the woods and minimizing the waste of the tillable ground.

BOARD OF ADJUSTMENT
APRIL 28, 2003 - PAGE 19

Darwin Fox said he was out to the site and looked. The houses would need to be located on the farmland. The (A-3) zoning in the County Zoning Ordinance does not protect the farmland. The (A-3) zoning district does not even address protecting farmland so they cannot use it as a hardship. He said he did not know exactly where the driveway was being proposed.

Joanne Wood said the County Zoning Ordinance and County Comprehensive Plan as a whole addresses protecting farmland.

Conrad Rapp asked about the degree of slope where the driveway was being proposed.

Darwin Fox said he did not know the exact location of the proposed driveway, but it didn't look that steep.

Lisa Skipton said the County would prefer one driveway rather than three driveways onto the County road. The County could make them move the driveway location.

Larry Fox said the County wanted them to place a sign about a 750-ft limited site for his son's driveway. He said he hired David Johnson to determine where the best location for the driveway was located.

Stanley Klair asked when the Board approved Mr. Fox's son's building site, did they tie up a specific area or just acreage.

Larry Fox said it was only indicated that it was one of the four homes allowed on the entire parcel.

Lisa Skipton said Mr. Fox is asking to group the three homes and he is willing to tie up the remaining land.

Conrad Rapp made a motion to approve the request in addition to this note that we are tying up the remaining land and include the variance to the 100-ft of road frontage requirement on the one lot. Motion died due to lack of a second.

Brad Anderson made a motion to deny the variance because there was no hardship proven; he still has three building sites available. Seconded by Stanley Klair. Motion carried 3:2 with Richard Sviggum and Conrad Rapp dissenting.

Findings: No hardship exists. The plight of the landowner is not due to circumstances unique to his property and is being created by the landowner. The property is large enough to maintain the 35-acre lot size and a variance would not be required.

Comprehensive Plan Update.

First meeting on element of growth issues. Second meeting will be May 8 in Zumbrota. Didn't have a big turnout. 7: p.m. to 8:30 p.m.

Other Business. No other business.

Meeting adjourned.

Respectfully Submitted,

Lavon Augustine
Zoning Technician