

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN  
APRIL 27, 2009

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The Special Meeting of the Goodhue County Board of Adjustment was called to order at 6:30 p.m. by Chairman Dennis Monroe in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Dennis Monroe Brad Anderson Judy Fritzingler Stanley Klair  
Mike McKay Lisa Hanni Bernie Overby

Absent:

*<sup>1</sup>Motion by D. Monroe seconded by S. Klair and carried to approve the April 27, 2009 Board of Adjustment Agenda. Motion carried 5-0.*

*<sup>2</sup>Motion by B. Overby seconded by J. Fritzingler and carried to approve the January 26, 2009 Board of Adjustment minutes. Motion carried 5-0.*

**Staff Updates:** None

**Conflict/Disclosure of Interest:** None.

**Election of Vice-Chair: B.A. asked for Volunteers:** J. Fritzingler Volunteered.

Motioned by D. Monroe, 2<sup>nd</sup> B. Overby for J. Fritzingler for vice-chair. Carried 5-0.

**Maurice Zaffke** - S ½ of NW ¼ Section 7 T 112N R15 W and N 1/3 of SW ¼, .13 more or less highway easement. The request is for a variance to build an addition five feet from the toe of the bluff instead of the required 30' setback. The request includes a request for a variance to build a deck to the toe of the bluff instead of the required 30' setback.

**Parcel #: 31-007-0600**

**Location: 29315 County 6 Blvd**

**Background**

Mr. Zaffke would like to build an addition onto his dwelling. The addition would be an attached garage with an upstairs bedroom. Mr. Zaffke is currently taking care of his parents and would like the additional room to make the house more comfortable.

According to the applicant's site plan, the dwelling currently sits eight feet from the toe of the bluff. The attached garage would be built straight with the house, but the bluff angles closer to where they would like to build. Therefore, the garage will be within a few feet from the base of the bluff. The applicant would also like to build a deck onto the second floor of the dwelling. The deck would be over the base of the bluff. The support posts would be built just behind where the existing rock wall is now.

The dwelling is located on a century farm and was built over 100 years ago. The applicants have built a retaining wall to stop the hill from eroding toward the house. The applicant has worked with the Soil and Water Conservation District in regards to wetlands located on the property. The property also contains shoreland and floodplain. Mr. Zaffke is trying to improve the drainage on the property.

The addition would not be going any closer to the road than the dwelling already is.

Featherstone Township has approved the request.

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**Findings of Fact**

**Article 5, Subd. 1.** In exercising its authority to review any order, requirements, decision or determination made by any administrative official, the Board shall not grant any appeal or variance unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:

- A. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
  - a. The dwelling was built before the current zoning regulations were in place.
- B. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and that the granting of the variance will not alter the essential character of the locality.
  - a. Granting the variance should not be detrimental to any of these issues and should have no adverse affects on adjacent properties.

Subd. 2. In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

Minnesota State Statutes constitute a hardship in section 394, subdivision 7. "Hardship" as used in connection with the granting of a variance means 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 the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

The hardship is due to the proximity of the dwelling to the road, stream and bluff. There is no way to build an addition onto the dwelling without needing a variance to something.

An area variance may be granted only where the strict enforcement of county zoning controls will result in "practical difficulty". A determination that a "practical difficulty" exists is based upon the consideration of the following criteria as defined by the Minnesota Supreme Court in In re the Matter of the Decision of County of Otter Tail Board of Adjustment to Deny a Variance to Cyril Stadvold and Cynara Stadvold.:

1. Is the request a substantial variation from the intent of the zoning ordinance? Why or why not?
  - a. The request is not as substantial variation from the intent of the zoning ordinance because of the location of the existing dwelling. The deck would have minimal impact on the toe of the slope, and the addition would have very little, if any impact on the base of the bluff.
2. Will the requested variance effect a substantial change in the character of the neighborhood or will it result in a substantial detriment to neighboring properties? Why or why not?
  - a. The variance should not affect neighboring properties. The applicants are designing the addition so that it matches the pitch of the house, so that it blends well with the existing dwelling.

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3. Is there a feasible method to alleviate the practical difficulty without need of a variance? (Economic considerations play a role in the analysis under this factor) Why or why not?
  - a. The feasible methods to alleviate the practical difficulties without a variance would be:
    - i. Not build the addition at all.
    - ii. Build a detached garage elsewhere on the property where it would meet setbacks.
      1. If this option would be chosen the additional bedroom space would not be made available to the dwelling.
4. How did the practical difficulty occur? Did the landowner create the need for the variance? Explain.
  - a. The need for the variance was created when the house was built so close to the bluff over 100 years ago.
5. In light of all of the above factors, would denying the variance serve the interests of justice? Why or why not?
  - a. The interests of justice would be served by denying the variance, if the interests of justice were to stand by the strict adherence to the ordinance. The Board must ask themselves if the property can be put to a reasonable use without a variance, is the addition reasonable?

**Staff Recommendation**

Staff recommends that the Goodhue County Board of Adjustment:

1. Accept the staff report into the record.
2. Approve the request for a variance to build an addition five feet from the toe of the bluff instead of the required 30' setback. As well as the request for a variance to build a deck to the toe of the bluff instead of the required 30' setback.
3. Adopt the above stated findings of fact along with any additional information which may be presented at the public hearing.

**Discussion:**

L. Hanni explained report.

*M. McKay arrived.*

L. Hanni continued with report, findings of fact, hardship and staff recommendation of approval. She noted pictures.

S. Klair said he did site visit and explained site.

*C/D. Monroe opened the public hearing.*

M. Zaffke said in-laws related party instead of father as report mentioned. Phil Johnston, Neighbor also present. He Said they are making progress over the 100 years.

B. Overby asked when did they build house.

M. Zaffke said 101 years old.

B. Overby asked about mining hole structure in the site picture.

M. Zaffke said Sears gas plan for original system. Story of Swedish wife wanting house instead of cave. Land was farther away from county 6 blvd before. New goal is to make the home symmetrical.

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Phil Johnston, neighbor, agreed County 6 was close to property also, not seeing encroachment issue at all. Nice road don't get him wrong.

*With no further public comment M. McKay motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 6:0*

M. McKay said sounds like best solution.

*<sup>3</sup>Motion by M. McKay and seconded by J. Fritzingler to accept the staff report into the record, adopt the findings of fact that staff has prepared and approve the variances to deck and setback. Motion carried 6-0.*

**Michael Frederick** – Pt of NE ¼ of SW ¼ & Pt of SE ¼ of NW ¼ & Pt of NW ¼ of SE ¼ Section 32, T113N, R16W. The request is for the Board to determine that what was recorded for the decision on a March 7, 2002 variance was in err, and to allow staff to make the correction.

**Parcel #: 46-032-0901**

**Background**

Michael Frederick Jr. is interesting in purchasing a portion of his parents' property located in Section 32 of Welch Township. On April 22, 2002 Mr. Frederick Sr. received a variance to build an additional dwelling in the ¼, ¼. What was recorded was to allow the dwelling to be located in the NE ¼ of the SW ¼. Where Mr. Frederick Jr. would like to build is actually located in the SE ¼ of the NW ¼. After reviewing the minutes from the meeting, it appears that Mr. Frederick Sr. was describing the same location: "It appeared to be east/ northeast of the existing building site."

We believe the ¼, ¼'s were recorded in error, and the intended variance was to be issued to the SE ¼ of the NW ¼.

**Recommendation**

Based on the background of the request, staff requests that the Board acknowledge the recorded ¼, ¼'s as a typo, and authorize staff to record a correction indicating the variance was granted to the SE ¼ of the NW ¼.

**Discussion:**

L. Hanni explained report. Recommend record of correction for the variance.

J. Fritzingler asked where is it from which quarter to which quarter. Where did the transfer come from.

L. Hanni read past minutes.

B. Anderson explained error.

J. Fritzingler asked how many building sites in each quarter.

L. Hanni said variance for A-2 for ¼, ¼ with transfer site coming from ¼ that is in wild and scenic, so that will remain undeveloped.

J. F. asked if section full now.

L. Hanni said no not full.

L. Hanni explained map. Asking permission to correct change.

S. Klair asked if they wanted to build.

B. Overby asked if new variance.

L. Hanni said error in past recorded wording.

B. Anderson explained site correction of coming from east-north east. Then wild and scenic  $\frac{1}{4}$ ,  $\frac{1}{4}$  unbuildable to the east.

*C /D. Monroe opened the public hearing. No public.*

*<sup>4</sup>Motion by D. Monroe and seconded by S. Klair to accept the staff report into the record, adopt the findings of fact that staff has prepared and approve the variance to correct past report err. Motion carried 6-0.*

*<sup>5</sup>Motion by B. Overby and seconded by M. McKay to adjourn the April 27, 2008 Board of Adjustment meeting at 6:55 p.m. Motion carried 6-0.*

Respectfully Submitted,

Kelly Moriarty  
Secretary

## MINUTES

- <sup>1</sup> APPROVE the April 27, 2009 Board of Adjustment Agenda. Motion carried 5-0.
- <sup>2</sup> APPROVE January 26, 2009 Board of Adjustment minutes. Motion carried 5-0.
- <sup>3</sup> APPROVE Board of Adjustment election of J. Fritzinger. Motion carried 6-0.
- <sup>4</sup> APPROVE the variance to correct past report err. Motion carried 6-0.
- <sup>5</sup> ADJOURN the April 27, 2008 Board of Adjustment meeting at 6:55 p.m. Motion carried 6-0.