

## BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN APRIL 23, 2007

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

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

Absent: Randy Juliar

*<sup>1</sup>Motion by S. Klair seconded by D. Monroe and carried to approve the revised April 23, 2007 Board of Adjustment Agenda as amended. Motion carried 5:0.*

*<sup>2</sup>Motion by D. Monroe seconded by S. Klair and carried to approve the March 26, 2007 Board of Adjustment minutes. Motion carried 5:0.*

**Staff Updates:** M. Wozniak said that we have been reviewing a record for the appeal by Roy Hakala to the variance issuance for Eric Stelter, as part of the appeal process the attorney's get together to make sure there is a record produced and transcribe all the discussion and we'll keep you informed on that process.

K. Gross said that we are working on compiling some raw data on property line issues and we are working on formulating some statistics for the next meeting.

B. Anderson welcomed B. Overby to the board.

**Conflict/Disclosure of Interest:** B. Anderson said that he knows Marie Lexvold and her family very well it won't be a conflict. He also knows Ron Friesen very well, that also won't be a conflict, he just wanted it to be known to the Board.

### **Elect Vice Chair –**

*<sup>3</sup>B. Anderson nominated Dennis Monroe for Vice Chair, S. Klair seconded, Motion carried 5:0.*

**Marie Lexvold** – E32.92 Ac of N ½ of SW ¼, and S ½ of SW ¼; Section 6 T111N R15S, Goodhue Township. The request is to transfer a building site from the NE ¼ of SW ¼ to the SE ¼ of SW ¼ in order to be able to split a second farm dwelling from the main parcel.

M. Wozniak presented the staff's recommendation and findings as follows:

Marie Lexvold is requesting a variance to transfer a building site from the NE ¼ of the SW ¼ to the SE ¼ of the SW ¼ in order to meet the density requirements so that she can split her dwelling from the main tax parcel.

### **Background**

On June 2, 1981 Marie was granted a conditional use permit for a second farm dwelling for a mobile home on her property where her house currently sits. This permit was granted with 3 year renewals required. Then, on November 8, 1983, Ms. Lexvold returned and requested another conditional use permit to replace the mobile home with a permanent structure. The conditional use permit was granted and the mobile home was replaced with the home that is currently there. In February, 2007, the zoning department rejected Ms. Lexvold's request to split the home from the main tax parcel due to it being a second farm dwelling, staff informed her that it could not be split.

The reasoning that second farm dwellings cannot be split from the main parcel is because they are not part of the number of dwellings in the section. When the dwelling is split it would need to be counted towards one of the dwellings in the section.

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This case is unique. There are currently four dwellings in the section (not counting this one) and the area is zoned A-2 Agricultural Protection District which allows for 12 dwellings. The second farm dwelling does not meet the  $\frac{1}{4}$ ,  $\frac{1}{4}$  density requirements, since the main dwelling for the farm is currently in the same tax parcel. This tax parcel encompasses nearly  $\frac{3}{4}$  of the SW  $\frac{1}{4}$ . Ms. Lexvold, and her son (who intends on buying the rest of the property) are willing to transfer the right to build in the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  to the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  (where the house currently is) so that it will meet the density requirements to be able to be divided.

Goodhue County has indicated they support the request.

**Findings of Fact**

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

- A. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
  - 1. **There are currently 4 dwellings in the section, if this were split it would become dwelling #5.**
  - 2.  **$\frac{1}{4}$ ,  $\frac{1}{4}$ 's have been transferred in the past to allow for another building site in a full  $\frac{1}{4}$ ,  $\frac{1}{4}$ .**
- 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. Staff does not have an issue with this requirement.**

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.

- A. **Transferring the building site would be making this second farm dwelling into a legal building site able to be split from the main tax parcel. The section is not full and the overall density would not be increased by allowing the second farm dwelling to be split from the main tax parcel. There are practical difficulties in the way of carrying out the strict letter of the official control, and the request is in harmony with the general purpose and intent of the official control.**

**Staff Recommendation/Resolution**

Based on the above stated findings of fact staff recommend approval of the variance to transfer a building site from the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  to the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  to be able to split the second farm dwelling into a separate tax parcel; with the condition that the applicant's surveyor indicate in writing that proposed new property lines are at least 100' from the existing dwelling.

B. Overby clarified that the area that is "X'ed" out would no longer be able to have a house put on it.

B. Anderson asked why this was permitted as a second farm dwelling.

K. Gross said that she has discussed this at length with Ms. Lexvold and has looked into this. From what Ms. Gross understands of the ordinance of that time, she isn't quite sure why it was permitted as a second farm dwelling. There was spacing between dwellings and it appears it would have met that requirement.

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B. Anderson asked if it could have just been put on the application it was a second farm dwelling.

K. Gross said that there was actually a conditional use permit for the second farm dwelling, so why you would have somebody go through that trouble if it qualified for a building site, she wasn't sure if a second farm dwelling was looked at the same way then.

Marie Lexvold said that her son Keith Lexvold wants to buy the 100+ acres and he can't buy two houses.

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

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

*With no public comment B. Anderson motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 5:0.*

M. Wozniak said for their interest they will copy what the rules said to what the language said to second farm dwellings.

B. Anderson said that he went through the same thing. He had a mobile home, in '87 he replaced it with a permanent structure.

*<sup>4</sup>Motion by S. Klair and seconded by B. Overby to approve the variance to transfer a building site from the NE 1/4 of the SW 1/4 to the SE 1/4 of the SW 1/4 in order to meet the density requirements so that she can split her dwelling from the main tax parcel. Motion carried 5:0.*

**Dennis Burr** - Part of NE 1/4 of SW 1/4 Section 32 T112N R16W, Vasa Township. The request is for a variance to build an accessory structure 48' to the west property line instead of the required 100' setback (variance is for 52').

M. Wozniak presented the staff's recommendation and findings as follows, he also stated that staff's intentions were to recommend approval of the variance request as presented thus far:

Dennis Burr is requesting a variance to build a shed 48' to the west property line instead of the required 100' setback (variance is for 52').

**Background**

Mr. Burr's property is in the flood fringe area. The proposed garage location is on the edge of the flood fringe. Mr. Burr has stated in his application he would like to build his garage on the high spot on his property, and that this is the only truly feasible spot on the property for the garage.

Prior to issuing the building permit, Mr. Burr would be required to provide elevations of the proposed location for the garage, and a certificate of elevation would need to be provided after it was built to insure the as-built elevation meets floodplain requirements.

Vasa Township has indicated they support the request.

**Findings of Fact**

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

- C. 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.

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**3. The floodplain on the property limits feasible areas for the garage.**

D. 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. Staff does not have an issue with this requirement.**

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.

**a. The topography of the property, and the floodplain constitute the hardships. The request is in harmony with the general purpose of the official control.**

J. Fritzing said that she was on the site visit and this is a good spot. It will be a couple feet higher than the house, so it should be dry.

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

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

*With no public comment B. Anderson motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 5:0.*

*<sup>5</sup>Motion by B. Anerson and seconded by S. Klair to approve the variance to build an accessory structure 48' to the west property line instead of the required 100' setback (variance is for 52'). Motion carried 5:0.*

**Gordon Hofmann** - Pt of SW ¼ of SW ¼ Section 22 T112N R16W, Vasa Township. The request is a variance to build an accessory building 10' from the north property line instead of the required 100' setback (variance is for 90').

M. Wozniak presented the staff's recommendation and findings as follows, he also stated that staff's intentions were to recommend approval of the variance request as presented thus far:

Gordon Hofmann is requesting a variance to build an accessory building 10' from his north property line instead of the required 100' side yard setback (variance is for 90').

**Background**

Mr. Hoffmann's property contains various terrains such as bluff impact zone, steep slopes, and agricultural land. He received a variance in 2002 to build their dwelling 50 feet from the same property line due to the topography of the property.

Vasa Township has indicated they support the request.

**Findings of Fact**

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

E. 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.

**4. The topography of the property and the location of the septic system make it difficult to meet the required setbacks.**

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F. 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. Staff does not have an issue with this requirement.**

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.

**a. The topography of the property constitutes the hardship in the way of carrying out the strict letter of the ordinance.**

Gordon Hofmann was present and stated that having the variance of 10' would allow him to move his farm machinery around without putting it so close to the bluff. He passed around a letter from the neighbor stating there was no opposition to the setback.

D. Monroe asked if he had farm machinery.

Mr. Hofmann said he is a little hobby farm and has some old farm machinery that he would like to get indoors out of the elements.

B. Anderson asked how Mr. Samuelson accesses his property.

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

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

*With no public comment S. Klair motioned and B. Overby seconded to approve the closure of the public hearing. Motion carried 5:0.*

B. Anderson said that this makes sense and it gives credence to have Myron's signature.

*<sup>6</sup>Motioned by B. Anderson, seconded by D. Monroe to approve the request for a variance to build an accessory structure 10' from the north property line instead of the required 100' based on staff's recommendations. Motion carried 5:0.*

**Ronald Friesen** - Lot 1, Section 27, T114N R16W, Welch Township. The request is a variance to build an addition on a dwelling less than the required 100' from the east property line.

M. Wozniak presented staff's findings of fact and recommendations as follows:

Ronald Friesen is requesting a variance to build a garage addition onto his home closer than the required 100' setback. The minimum distance to the property line will be determined at the site visit and will be available at the meeting.

**Background**

Mr. Friesen's property is located on Clear Lake, and the majority of the property is located in the flood fringe area. According to the Flood Insurance Rate map, and verification from the area hydrologist, Bill Huber, the regulatory flood protection elevation (RFPE) is 690.2 feet.

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Prior to issuing a building permit, Mr. Friesen would be required to submit ground elevations from a registered surveyor, and after the construction is completed an elevation certificate would need to be submitted to ensure the as-built elevation is at or above the RFPE.

This request was brought before the Welch Township Board. There were no concerns raised during the public hearing and the township indicated they support the request.

**Findings of Fact**

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

G. 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.

**5. The topography of the property prohibits a reasonable location for the garage.**

H. 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. Staff does not have an issue with this requirement.**

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.

**B. The topography of the property, and the floodplain constitute the hardships. The request is in harmony with the general purpose of the official control.**

**Staff Recommendation/Resolution**

Based on the above stated findings of fact staff recommend approval of the variance to build a garage addition onto a dwelling closer than the required 100' setback (distance to be determined upon site visit and reported at meeting).

K. Gross clarified the flood elevation requirements.

Darwin Fox said that this is the most reasonable use for the garage. No matter where they put it, it would require a variance. The neighbor said that he supports the variance, who is the father in law.

M. Wozniak said that this is a unique property.

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

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

*With no public comment B. Anderson motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 5:0.*

***<sup>7</sup>Motioned by S. Klair, seconded by B. Anderson to approve the request for a variance to build an addition on a dwelling less than the required 100' from the east property line. Motion carried 5:0.***

<sup>8</sup>*Motioned by B. Anderson, seconded by D. Monroe to adjourn the March 26, 2007 Board of Adjustment meeting at 7:10 p.m. Motion carried 5:0.*

Respectfully Submitted,

Kristi Gross  
Secretary

## MINUTES

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<sup>1</sup> APPROVE March 26, 2007 Board of Adjustment Agenda. Motion carried 5:0.

<sup>2</sup> APPROVE February 26, 2007 Board of Adjustment minutes as amended. Motion carried 5:0.

<sup>3</sup> NOMINATE Dennis Monroe for Vice Chair. Motion carries 5:0.

<sup>4</sup> APPROVE the variance to transfer a building site from the NE ¼ of the SW ¼ to the SE ¼ of the SW ¼ in order to meet the density requirements so that she can split her dwelling from the main tax parcel. Motion carried 5:0.

<sup>5</sup> APPROVE the variance to build an accessory structure 48' to the west property line instead of the required 100' setback (variance is for 52'). Motion carried 5:0.

<sup>6</sup> APPROVE the request for a variance to build an accessory structure 10' from the north property line instead of the required 100' based on staff's recommendations. Motion carried 5:0.

<sup>7</sup> APPROVE the request for a variance to build an addition on a dwelling less than the required 100' from the east property line. Motion carried 5:0.

<sup>8</sup> ADJOURN the March 26, 2007 Board of Adjustment meeting at 7:10 p.m. Motion carried 5:0.