

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

Present: Darwin Fox Stanley Klair Brad Anderson Dennis Monroe Howard Stenerson  
Joanne Wood

Absent Bill Warmka

[\[1\]](#)

*Motion by S. Klair and seconded by H. Stenerson and carried to approve the August 23, 2004, Board of Adjustment Agenda. Motion carries 5:0.*

S. Klair asks if the “not” should be in the motion, to read that the replacement site “would qualify.”

[\[2\]](#)

*Motion by B. Anderson and seconded by D. Monroe and carried to approve the July 26, 2004, Board of Adjustment Minutes as amended. Motion carries 5:0.*

Staff Updates: none to be discussed.

Conflict/Disclosure of Interest: none to be discussed.

**Deanna Feehan –**

Lot 6, Block 1 in Lakeview Heights W ½ of Sec 30 T112N R12W Florence Twp. The request is a variance to place the septic drain field less than the required 20’ setback from an existing structure. Septic drain field will be sited 10’ from existing structure. The variance is for 10’.

The property in question is located on a lot in the Lakeview Heights Subdivision in Florence Township. Ms. Feehan is in a position where she is required to replace her on-site septic system, however, due to the small lots in Lakeview Heights and the arrangement of the structures and driveway on the lot, she is limited as to where the septic and drain field can be located and meet all applicable setbacks.

Ms. Feehan is not present.

S. Klair asks if Section 30 is correct.

J. Wood points out that there are two section 30’s in Florence Twp. She then continues to tell the Board that we can push this to the end or we can review it without the applicant being present.

C/D. Fox asks if we have ever done that before.

J. Wood says they have reviewed without the applicant being there before.

B. Anderson states that it looks like the applicant really doesn’t have any other choice.

H. Stenerson says there is some time to kill before the next applicant anyway, so we may as well discuss it and if it is not in favor of the applicant then the Board should give them a chance to speak if they come later. He continues to say from visiting the site he could see a hardship.

C/D. Fox says the Board has had these cases before.

S. Klair says that since there is no basement the Board doesn’t have to worry about seepage.

J. Wood states that back when the plots were approved at this size there weren't issues with needing a second sight for a septic. She continues to say that at this time she has not received official approval from the Environmental Health Department. But she doesn't see a problem with getting it.

C/D. Fox opened public hearing.

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

*Moved by H. Stenerson, seconded by S. Klair and carried to approve closure of public hearing. Motion carried 5:0.*

[3]

*Moved by H. Stenerson and seconded by S. Klair and carried to approve the variance to place the septic drain field less than the required 20' setback from an existing structure, for Deanna Feehan Lot 6, Block 1 in Lakeview Heights W ½ of Sec 30 T112N R12W Florence Twp, based on staff recommendation and recommendation from public health.*

Findings of Fact:

A hardship exists. 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 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 applicant shall install a new on-site septic system as required by the Goodhue County Zoning Ordinance in order to be able to inhabit the premises.

B. Anderson suggests that we put it contingent on environmental health approval.

H. Stenerson amends his motion to say contingent on environmental health's approval approved by S. Klair.

*Motion carried by 5:0.*

**David Goranson –**

E455ft of S311.14 ft of S ½ of NE ¼ Sec 31 T112N R13W Florence Twp. The Request is for a variance to build a shed less than the required 93' setback from the center line of a township road (335<sup>th</sup> Street Way). Shed will be sited 53' from the center line. The variance is for 40'.

Mr. Goranson is present and states that the proposed location is the best place for the shed. Otherwise it would be in front of the house or too close to the drainfield.

B. Anderson clarifies where Mr. Goranson is speaking of.

The Goranson's recently purchased this property containing an existing dwelling with an attached garage and consisting of 3.25 acres. The proposal is to construct a shed for personal storage. This property is located on 335<sup>th</sup> Street Way, which is a dead end road. There are two dwellings located further to the west on the end of 335<sup>th</sup> Street Way.

J. Wood clarifies to the Board what was seen at the site visit and says that her recommendation was to deny based on the fact that there was room to place it and meet the setback, but then the Board has to take into consideration to meet the property line. She tells the Board the purpose of the setback is in

order for the snow plows in the winter and to allow for widening of the road, but it is a dead end road.

C/D. Fox asks Mr. Goranson how large of a lot this is.

Mr. Goranson replies 3.5 acres.

H. Stenerson states that it would be possible to locate the shed on the lot and meet all the setbacks without the variance. He continues to say he understands why Mr. Goranson would prefer the shed where he is proposing. It would look a lot nicer and would match the garage and not be in front of the large picture window. But aesthetics doesn't make a hardship, and he has room without a variance.

Mr. Goranson says that he cleaned the area behind the house so that people coming down the road could see West Florence Avenue and if he has to put the shed there it would block that view again.

B. Anderson clarifies that it is 60 feet from the road right of way and 100 ft from the property lines.

Mr. Goranson says that even with the 100' setbacks it would still put it right out in front.

J. Wood asks Mr. Goranson what the dimensions of the lot are.

B. Anderson says it looks like it is 450 and 300'.

J. Wood says he is somewhat limited.

C/D. Fox says that it is not impossible to place the shed to meet the setbacks.

H. Stenerson says that if he puts it in the back it would still be questionable to meet the setbacks short of moving it in front of his living room picture windows.

C/D. Fox opened public hearing

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

*Moved by S. Klair seconded by D. Monroe and carried to approve closure of public hearing. Motion carried 5:0*

S. Klair says the main question here is whether or not there is a hardship.

B. Anderson says that from that drawing it would affect the second drainfield.

J. Wood asks when this lot was created then says that if there is a lot created after 1985 there has to be room for a second drainfield.

S. Klair asks if this dead end road would ever be expanded.

J. Wood says that this is A-1 and it is doubtful that there would ever be more development here.

H. Stenerson says his original thinking is that there wasn't really a hardship, but now in thinking for the future and needing an area for a second septic, it could become a serious issue meeting proper septic setbacks.

B. Anderson asks J. Wood if it took a variance from the Twp.

J. Wood says that it didn't require a variance proceeding.

B. Anderson asked if they have smaller setbacks than the county.

J. Wood says she doesn't know. She explains where the 93' from centerline comes from.

H. Stenerson says that even if they do expand later in the future, he still doesn't see an issue with having enough land to do so.

[\[4\]](#)

*Moved by B. Anderson and seconded by D. Monroe and carried to approve the variance to build a shed less than the required 93' setback from the center line of a township road (335<sup>th</sup> Street Way) for David Goranson E455ft of S311.14 ft of S ½ of NE ¼ Sec 31 T112N R13W Florence Twp, based on the need for a second site for a septic. Motion carried by 5:0*

**Thomas, Rochelle & Anton Nygaard –**

Pt of W ½ of SW ¼ Sec 22 T111N R17W Leon Twp. The Request is an appeal to relocate a replacement dwelling from parcel 37-022-1200 to 37-022-0700.

The Nygaard's are present and are requesting an appeal to move a replacement site over 500 ft. from where the existing replacement site is currently located.

J. Wood says that last year she met with Tom Nygaard to view the site to determine if a replacement site existed. Upon the site visit an existing barn was present and it appeared to meet the definition of a replacement site. Mr. Nygaard indicated to her that an old foundation existed in the trees, which was next to the existing barn. She indicated to Mr. Nygaard that if there was an old foundation present it would meet the criteria of a replacement site. This spring the Nygaards submitted an application for a building permit which has been approved by the Township and other County Officials. During the review process she received a phone call from a neighbor indicating that the proposed dwelling was not located where the existing replacement site exists. Upon discussion with Mrs. Nygaard it was determined that they own two parcels in this area and the proposed dwelling is indeed being located on a different parcel over 500 ft. from the replacement site. At that point J. Wood explained that replacement sites are located in the vicinity of the existing structures and Mrs. Nygaard stated she was not aware of that. Mrs. Nygaard also stated that Leon Township required the proposed dwelling to be located 500 ft. from another dwelling. Mrs. Nygaard was told at that time they would be required to apply for an appeal to move the site, which they have done. The proposed site places the dwelling further away from the neighbors and additionally places the dwelling further away from Highway 52. Leon Township has approved a Building Permit in the location as proposed by the Nygaards.

H. Stenerson asks if there were any code problems with locating it that close to water.

J. Wood says that it is not considered shoreland, wetland or floodplain.

B. Anderson says that from the townships end when the Nygaards came in it was a legitimate building site in their ordinance without a variance. The township does not recognize replacement sites.

Staff would recommend approval of the appeal to move the replacement site from parcel 37.022.1200 to 37.022.0700 based on the fact the proposed dwelling would be sited in a better location as it would be further from the adjacent neighbors and Highway 52. Additionally, Leon Township requires the dwelling to be sited 500 ft. from the closest dwelling. The parcel in question is part of and adjacent to a 42 acre parcel.

C/D. Fox opened public hearing.

Robert Siebenaler asks the Board what qualifies a site as a replacement dwelling. He then approaches the Board to show various pictures including the barn, but no house before the highway came through the area. He shows today's pictures with the barn in relation to his house. He continues to say that the Nygaards came out about 2 years ago and started to dig 6-8ft. deep and about 8 feet across for an outhouse. He then came out again and started to stake the property line but when he did that he encompassed more land than what was actually there. His question is how does the Board go to determine if the house was actually on that parcel. He says he has lived there for 10 years. He states the reason he took these pictures were because Mr. Nygaard staked way into his property and when Samuelson came out and did the survey they moved the stakes back "quit a ways". He continues to say in the past 6 years they have had some four inch rains that have caused the dry run behind the Nygaards proposed location to be flooded out to the road.

J. Wood tells Mr. Siebenaler that the ordinance is pretty vague to determine what replacement site is. She continues to tell Mr. Siebenaler that the Board has gone back as far as 1877 to determine that a place would qualify as a replacement site. It was staff's decision that it qualified as a replacement site based on a site visit.

C/D. Fox asked when this property became a parcel.

Mr. Nygaard says that his grandfather bought a lot of the surrounding property.

Mr. Siebenaler says the furthest the Nygaards ever dug to find the outhouse they were still about 10 ft into his property.

H. Stenerson asks Mr. Siebenaler if the Board allows the replacement site to move would it be to his benefit or not?

Mr. Siebenaler says that looking at the site, it has flooded in the past and if they go 300-400ft away there is higher ground which would be better.

*With no further comments it is moved by D. Monroe seconded by B. Anderson and carried to approve closure of public hearing. Motion carries 6:0.*

C/D. Fox asks J. Wood if the issue has to do with whether or not it is a replacement site.

J. Wood says that the question is if they can move the replacement site. The site has already been determined to be a replacement site.

B. Anderson says we need to clean up the ordinance or live with what we have.

S. Klair asks B. Anderson if the water has been high in the proposed location.

B. Anderson says that the water has been high out there.

J. Wood asks where it drains?

B. Anderson says that it drains a significant amount of water into the Belle Creek watershed.

J. Wood says that it doesn't show up on any map that it is a flood plain. So if it is going to flood it is up to the responsibility of the homeowner.

S. Klair clarifies their concern is just to move the site.

H. Stenerson says that when he went out the site meets code. If we keep the site where it is it would be detrimental to the neighbors. The site they are proposing would be better it is not being farmed.

C/D. Fox asks to clarify from B. Anderson if the township has already approved.

B. Anderson says Leon Township has approved it without a variance.

H. Stenerson says that the replacement site is basically in the neighbors back yard and even if you move it 100 ft away it would not meet the 500 ft setback from the neighbors to meet the township ordinance.

H. Stenerson asks how they are going to raise their house.

Mr. Nygaard says they are going to raise the house 3 feet. They are going to push some dirt up so it is even with the road and says that there is a slope down to the water.

H. Stenerson says that the house can't be built if left at the current spot. But would like to put a contingency on it that they can't haul in fill and place that drainage into the neighbors property.

[5]

***Moved by S. Klair seconded by D. Monroe and carried to approve the appeal to relocate a replacement dwelling from parcel 37-022-1200 to 37-022-0700 for Thomas, Rochelle & Anton Nygaard, Pt of W ½ of SW ¼ Sec 22 T111N R17W Leon Twp based on staff recommendation. Motion carries 5:0 .***

Findings of Fact:

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.

**Rodney & Bernadette Johnson/Conrad Johnson –**

E ½ of SE ¼ of NW ¼ Sec 17, T111N R17W, Leon Twp. The request is an appeal to relocate a replacement dwelling approximately 1400 feet from the original location.

Mr. Johnson states that the location of the replacement site is located in a low valley where flooding occurs and they would propose to move the site out of the valley and into tillable land. The proposed location would be approximately 1400 ft. from the existing replacement site. The proposed site is in the middle of the back field. There is a field road that goes back to that site.

J. Wood says that upon the site visit they were unable to view the replacement site due to the topography and vegetative cover. We did, however, view the area where the dwelling would be located. The picture in your packet shows where the proposed dwelling is sited . This location is at the very far end of the field and appears that it would take a long driveway across tillable land to access the site. A better location may be on the edge of the woods in an area southerly of the Conrad Johnson home. In this way it may not take up as much tillable land.

B. Anderson asks Mr. Johnson if his father owned the surrounding land.

Mr. Johnson says his father owns most of it.

J. Wood asks why they are proposing this spot.

Mrs. Johnson says she doesn't want to live in the woods. She doesn't mind mowing.

C/D. Fox opened public hearing.

*With no further public comment it was motioned by S. Klair seconded by B. Anderson and carried to approve closure of public comment. Motion carries 5:0.*

**[6]**

***Moved by D. Monroe seconded by S. Klair and carried to approve the appeal to relocate a replacement dwelling approximately 1400 feet from the original location for Rodney & Bernadette Johnson/Conrad Johnson – E ½ of SE ¼ of NW ¼ Sec 17, T111N R17W, Leon Twp. Motion carries 5:0.***

Finding of Fact:

This is based on special circumstances or conditions affecting the land that do not apply generally to other property in the same vicinity.

Meeting Adjourned 8:40 p.m.

Respectfully Submitted,

Kristi Patton  
Zoning Technician/Recording Secretary

# MINUTES

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[1]

APPROVE the August 23, 2004, Board of Adjustment Agenda (Motion carries 5:0)

[2]

APPROVE the July 26, 2004, Board of Adjustment Minutes as amended (Motion carries 5:0)

[3]

APPROVE the variance to place the septic drain field less than the required 20' setback from an existing structure, for Deanna Feehan. (Motion carries 5:0)

[4]

APPROVE the variance to build a shed less than the required 93' setback from the center line of a township road (335<sup>th</sup> Street Way) for David Goranson (Motion carries 5:0.)

[5]

APPROVE the appeal to relocate a replacement dwelling from parcel 37-022-1200 to 37-022-0700 for Thomas, Rochelle & Anton Nygaard. (Motion carries 5:0.)

[6]

APPROVE the appeal to relocate a replacement dwelling for Rodney Johnson. (Motion carries 5:0.)