

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

Present: Brad Anderson Judy Fritzinger Stanley Klair Mike McKay Lisa Hanni
Bernie Overby

Absent: Dennis Monroe

¹Motion by S. Klair seconded by J. Fritzinger and carried to approve the June 22, 2009 Board of Adjustment Agenda. Motion carried 5:0.

²Motion by B. Overby seconded by M. McKay and carried to approve the January 26, 2009 Board of Adjustment minutes. Motion carried 5:0.

Staff Updates: L. Hanni stated that there will be some zoning language changing eliminating CER and trying to preserve the prime farmland. We will also be talking about the FEMA floodplain maps will be changing and the County Board has to approve those changes by the end of September or we will lose our NFIP status.

C/B. Anderson asked if that was part of the all hazards mitigation plan.

L. Hanni said that would be part of the all hazards mitigation plan, but the map change is not initiated by the plan.

K. Gross said that the map change is due to a nationwide map modification attempt to bring flood maps from large scale paper copies to a digital format called DFIRM. Some Base flood elevations may have changed, but "setbacks" have not changed.

B. Overby said that we are starting to set things off from the townships with the soil changes.

L. Hanni said that we don't have a choice. If we want to adopt the new soils we have to give up the CER's which don't exist with the new soils. The townships are going to have to decide. If we adopt the new soils there is no thing such thing as CER with the new soils. We are going to work with the people more and have them think about that.

B. Overby said the next time we have a township/county meeting you should go over this pretty good.

C/B. Anderson said that the new soils have a rating.

L. Hanni said that it does not have a direct correlation at all. It is not like a 60 CER equals a 60 CPI. If we are concerned with the prime farmland, lets look at those soils and figure it out from there.

Conflict/Disclosure of Interest: None.

David McKeag – Pt of the W 40.79 acres of Lot 3 Lying N of Twp Rd all in Section 7, T111N, R17W, Leon Township. The request is for a variance to build an accessory structure within the bluff impact zone. The request also includes a variance to build the shed 16' from the drainfield instead of the required 20' setback (variance is for 4'). The request includes a variance to build the shed 37' from the township road right of way instead of the required 60' setback (variance is for 23'.)

L. Hanni presented the staff report, findings of fact and recommendation:

Findings of fact:

The property is built into the side of a hill. The entire property meets the definition of the bluff impact zone and there is no location on the property to build an accessory structure without the need for at least one variance. Granting the variance should not be detrimental to any of these issues and should have no adverse affects on adjacent properties. The shed would not be visible from the township road, so aesthetically there should be no change from the public viewpoint. The hardship is due to the topography of the property. The request could be viewed as a substantial variation from the intent of the zoning ordinance because the garage would be built into the toe of the bluff. However if proper erosion control measures are met, the impact should be minimal. a. The character of the neighborhood will be unchanged because the property is not viewable from the township road due to the topographical differences. The applicants pointed out one other potential location for the garage, which would be directly in front of the dwelling, this location would also need a variance to the bluff impact zone, and the applicants indicated it was cost a substantial bit more money to attach the garage to the dwelling. The topography of the property is the reason for the variance. 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:

Based on the findings of fact, and the topography of the property staff recommend that the Board of Adjustment adopt the staff report into the record, accept the findings of fact, and approve the variances to build an accessory building in the bluff impact zone instead of 30' setback from the toe of the bluff; approve the variance to build the accessory building 16' from the drainfield instead of the required 20' setback, and the variance to build the accessory building 37' from the township road right of way instead of the required 60' setback with the condition that proper erosion control measures are taken to protect the integrity of the slope.

Discussion:

M. McKay asked if J. Fritzinger agreed with the staff report.

J. Fritzinger said that there isn't any other spot.

C/B. Anderson said that he was there for the township permit and there wasn't any other location to put it.

C/B. Anderson opened the public hearing.

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

With no further public comment M. McKay motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 5:0

³Motion by M. McKay and seconded by S. Klair to accept the staff report into the record, adopt the findings of fact that staff has prepared and approve a variance to build an accessory structure within the bluff impact zone, the variance to build the shed 16' from the drainfield instead of the required 20' setback (variance is for 4'), and the variance to build the shed 37' from the township road right of way instead of the required 60' setback (variance is for 23'). Motion carried 5:0.

Gary and Rosemary Jacobs – Pt of the SE ¼ of Section 18, T121N, R13W, Florence Township. The request is for a variance to build an accessory building closer than the required 30' setback to the toe of the bluff.

L. Hanni presented the staff report, the findings of fact and staff recommendation:

Findings of Fact:

The property is built into the side of a hill. The entire property meets the definition of the bluff impact zone and there is no location on the property to build an accessory structure without the need for at least one variance. Granting the variance should not be detrimental to any of these issues and should have no adverse affects on adjacent properties. The shed would not be visible from the township road, so aesthetically there should be no change from the public viewpoint. The hardship is due to the topography of the property. The request could be viewed as a substantial variation from the intent of the zoning ordinance because the garage would be built up to the toe of the bluff. However if proper erosion control measures are met, the impact should be minimal. The applicants are proposing to improve the integrity of the bluff from its current condition. The character of the neighborhood will be unchanged because the property is not viewable from the township road due to the topographical differences. The only feasible method to alleviate the difficulty would be not to build the structure. The topography of the property is the reason for the variance. 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:

Based on the findings of fact, and the topography of the property staff recommend that the Board of Adjustment adopt the staff report into the record, accept the findings of fact, and approve the variances to build an accessory building up to the bluff impact zone instead of 30' setback from the toe of the bluff with the condition that proper erosion control measures are taken to protect the integrity of the slope.

Discussion:

J. Fritzingler said that she went on the site visit and felt that this is the only place to build.

B. Overby said there is going to be an engineered wall here, who makes that determination of how high it should be.

L. Hanni said that determination will be made when the permit is applied for. State building codes will regulate how the wall is built if it is over a certain height.

B. Overby asked if there will be a lot of dirt to be moved

Mr. Johnson said that potentially a significant amount of dirt could be moved.

M. McKay said at what point do you get a permit for the wall.

L. Hanni said that we would require a grading permit to do any work within the bluff impact zone. That review would trigger whether or not the retaining wall would need a building permit.

M. McKay said that if those controls are in there than technically the retaining wall isn't in there except for the portion which attaches to the building.

C/B. Anderson opened the public hearing.

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

With no further public comment M. McKay motioned and S. Klair seconded to approve the closure of the public hearing. Motion carried 5:0.

C/B. Anderson said that from the way the township stated it they suggested that the wall be engineered.

L. Hanni said that the state building code would take over that and determine what that would require.

M. McKay said when they pull the permit do we go out.

L. Hanni said that in this instance we went out because of the variance request. But when a permit comes in we send it to SWCD, Environmental Health department.

K. Gross said that actually in this instance we were made aware of the situation when the applicant purchased the property, the applicant requested that staff come out to site and go over their options. The excavation into the toe of the bluff is allowed for erosion control measures, which is what the retaining wall would be for. Beau has been made aware of the request.

⁴Motion by S. Klair and seconded by B. Overby to accept the staff report into the record, adopt the findings of fact that staff has prepared and approve the variance to build an accessory building closer than the required 30' setback to the toe of the bluff. Motion carried 5:0.

Brian Scheele/Gregory Germann – Lots 1 & 2, Section 27, T112N, R15W, Featherstone Township. The request is for a variance to create a parcel with less than the required 100' lot width along a public road right of way. The variance would be for 35'.

L. Hanni presented the staff report, findings of fact and staff recommendation:

Findings of Fact:

A railroad right of way divided the property from the road. The property is accessed by a private road. The variance will not change the characteristic of the property at all, it will still be accessed via the private road. Granting the variance should not be detrimental to any of these issues and should have no adverse affects on adjacent properties. The hardship is due to the configuration of the parcel, and the fact that the old rail road right of way divides the parcel. No, the variance is less than ½ of the required road frontage. The variance will not affect the current access to the property. The request does not apply to the character of the neighborhood. It would be unchanged. The feasible method to alleviate the practical difficulty would be to buy the parcel in it's entirety. The old railroad right of way separates the majority of the parcel from the road frontage. 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 subdivision reasonable?

Staff Recommendation:

Based on the findings of fact, staff recommend that the Board of Adjustment adopt the staff report into the record, accept the findings of fact, and approve the variance to split the parcel with less than the required 100' of lot width along a public road right of way, with the condition that the parcel is configured how it is proposed in this application and that the actual road right of way distance will be verified and noted on the survey when complete.

Discussion

B. Anderson asked if the rest of the parcel has road frontage.

K. Gross explained that technically it does because the area south of the road has road frontage and it is part of the same parcel.

S. Klair asked if the property has been surveyed off yet.

Mr. Scheele said they will get the survey when they get all the approvals.

C/B. Anderson opened the public hearing.

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

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

S. Klair said that they didn't create this hardship.

L. Hanni said that their driveway comes off Greg's property.

Mr. Scheele said Section 26, correct.

⁵Motion by M. McKay and seconded by J. Fritzinger to accept the staff report into the record, adopt the findings of fact that staff has prepared and approve the variance to create a parcel with less than the required 100' lot width along a public road right of way. The variance would be for 35'. Motion carried 5:0.

⁶Motion by J. Fritzinger and seconded by M. McKay to adjourn the June 22, 2009 Board of Adjustment meeting at 7:06 p.m. Motion carried 5:0.

Respectfully Submitted,

Kristi Gross

Secretary

MINUTES

¹ APPROVE the June 22, 2009 Board of Adjustment Agenda. Motion carried 5-0.

² APPROVE April 27, 2009 Board of Adjustment minutes. Motion carried 5-0.

³ APPROVE a variance to build an accessory structure within the bluff impact zone, the variance to build the shed 16' from the drainfield instead of the required 20' setback (variance is for 4'), and the variance to build the shed 37' from the township road right of way instead of the required 60' setback (variance is for 23'). Motion carried 5:0.

⁴ APPROVE approve the variance to build an accessory building closer than the required 30' setback to the toe of the bluff. Motion carried 5:0.

⁵ APPROVE the variance to create a parcel with less than the required 100' lot width along a public road right of way. The variance would be for 35'. Motion carried 5:0.

⁶ ADJOURN the June 22, 2009 Board of Adjustment meeting at 7:06 p.m. Motion carried 5-0.