

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

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

Absent: Nancy Spooner-Mueller

K. Gross asked that the agenda to be amended to add a discussion about accessory structure sizes at the end of the agenda.

[1]

Motion by B. Anderson and seconded by D. Monroe and carried to approve the June 27, 2005 Board of Adjustment Agenda as amended. Motion carried 4:0: Pettit, Fritzingler absent.

J. Fritzingler arrived at the meeting

S. Klair stated that on Page 2 of the May 23, 2005 minutes it reads Dean Tiedeman Belvidere Twp Chairman and should read Zumbrota Township Chairman.

Page 8 typo "Eifort" "Eifert"

Page 2 what he used the other buildings for.

[2]

Motion by B. Anderson and seconded by J. Fritzingler and carried to approve the May 23, 2005 Board of Adjustment Minutes as amended. Motion carried 5:0.

[3]

Motion by D. Monroe and seconded by B. Anderson and carried to approve the June 6, 2005 Board of Adjustment Minutes. Motion carried 5:0.

S. Pettit arrived at the meeting

Staff Updates:

L. Hanni stated that the County Board passed a moratorium regarding regulated animals.

Conflict/Disclosure of Interest:

None was discussed.

Bradley Peterson – Lots 6 & 7 Block 10 Frontenac Station Section 15 T112N R13W Florence Township. The request is a variance to build an addition on an accessory structure closer than the required 20' setback from a septic drainfield in a B-2 Highway Business District.

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STAFF REPORT

Brad Peterson is requesting a variance to build an addition on an accessory structure closer than the required 20' setback from a septic drainfield in a B-2 Highway Business District. Mr. Peterson would like to put an addition on his garage. It would be the same setback from Britannia Ave. and would be extending 4' beyond the existing garage. This will be getting closer than the required 20' from the septic drainfield. The first block of Frontenac Station is zoned B-2 Highway Business District. This district does not have a maximum accessory structure size. Staff could not determine the exact location of the drainfield during the site visit. Only one inspection tube was visible. Jason Peterson with Environmental Health has reviewed the request and went out to the site to determine the location of the drainfield. It is

unclear at this time where the drainfield actually starts, but Mr. J. Peterson feels that the addition would not harm the drainfield in the proposed location. He has stated the main reason for the setback requirement is to avoid seepage which is more of a concern in basements of dwellings than in a garage. He was going to make another site visit and probe the drainfield to find the exact location of the edge of it so a setback distance could be determined. Florence Township has signed the Zoning Application Summary Form indicating they approve of the request.

Staff recommends approval of the variance to build an addition on an accessory structure closer than the required 20' setback from a septic drainfield in a B-2 Highway Business District based on the following findings of fact:

Environmental Health feels that garages do not have the same impact on a drainfield as a house might. There would be no seepage issues with a garage. This area is zoned B-2 Highway Business District and there are no limitations on the size of accessory structures in this district. A hardship is present. The drainfield is a fixed location and cannot be changed.

BOA DISCUSSION

B. Peterson stated he would like to put an addition on his garage and he thinks that his septic is the distance it should be from the garage.

K. Gross said that Jason Petersen from Environmental Health made a couple of site visits and was unable to determine the location of the drainfield. If it is far enough away there would be no need for this variance and the Board would not need to make a decision tonight.

Mr. Peterson said that he has uncovered the edge of the drainfield and they could come take a look at it.

K. Gross said that she could look at it tomorrow to see if it is far enough away.

[\[4\]](#)

Moved by B. Anderson and seconded by D. Monroe to approve the variance to build an addition on an accessory structure closer than the required 20' setback from a septic drainfield in a B-2 Highway Business District. Motion carried 6:0.

Gary Lawrence – The east 535 feet of the south 535 feet of the SE ¼ of Section 22 T109N R18W Kenyon Township. The request is a variance to register a feedlot 850' from the nearest dwelling instead required minimum 1,000' setback from the nearest dwelling (variance is for 150').

STAFF REPORT

Gary Lawrence is requesting a variance to register a feedlot 850' from the nearest dwelling instead of the required minimum 1,000' setback from the nearest dwelling (variance is for 150') in an A-1 Agricultural Protection Zoning District. Mr. Lawrence is proposing to have a total of 18 animal units of beef cattle on his 6.5 acre parcel in Section 22 of Kenyon Township, which is zoned (A-1) Agricultural Protection District. There was a feedlot at this location that was abandoned. The required setback for a new feedlot to an existing dwelling (other than owner occupied) is 1,000 ft or 94% OFFSET. Since Mr. Lawrence would be a small feedlot at 18 animal units, the 1,000 ft minimum is used. The nearest dwelling is 850 ft. and is owned by Joel Boyum. Mr. Boyum has submitted a letter of support for the proposed feedlot. Kenyon Township Board and Planning Commission have approved the variance.

Staff recommends approval of the variance to register a feedlot 850' from the nearest dwelling instead of the required minimum 1,000' setback from the nearest dwelling (variance is for 150') in an A-1

Agricultural Protection Zoning District based on the following findings of fact:

There were once animals on this property, the nearest dwelling is 850' from the feedlot and there is a tree buffer between the potential feedlot and dwelling. The neighbor has stated that he supports the variance. As stated above the nearest dwelling supports the variance and is over the OFFSET distance away, but does not meet the minimum standards currently. Desiring a feedlot in an agricultural district is a reasonable request and a hardship was not created by the current property owner.

BOA DISCUSSION

D. Monroe asked if this was a feedlot once would need a variance to be a feedlot now.

L. Hanni directed the question at Steve Schmidt the Feedlot Officer.

S. Schmidt said that he is looking for direction for this issue. There were animals here once. This is the first case he has run across.

J. Fritzingler asked if it was previously registered as a feedlot.

Mr. Schmidt said it was not.

L. Hanni stated that is one of the things staff is working on is bringing a date to the County Board to say that feedlots need to get registered by a certain date.

Mr. Schmidt said he stopped out at this site in 2001 and it had livestock but he is not sure how many.

M. McKay asked how many animals qualifies as a feedlot.

L. Hanni said that the ordinance states you need to register if you have 10 animal units.

Mr. Schmidt said this is the first case that was an existing site that was too close to a home.

B. Anderson said that it was obvious there were animals here before.

Mr. Lawrence said that the neighbor in question has had cows in the past until this year. He does not have cows this year but he plans to have them again.

C/S. Klair opened the public hearing.

No public comment was given.

Moved by B. Anderson and seconded by J. Fritzingler and carried to approve the closure of the public hearing. Motion carried 6:0.

[5]

Moved by S. Pettit and seconded by B. Anderson to approve the variance to register a feedlot 850' from the nearest dwelling instead required minimum 1,000' setback from the nearest dwelling (variance is for 150') based on the goal to preserve agricultural land and recognize this as an existing feedlot. Motion carried 6:0.

Gordon & Pauline Weigrefe – The west 5 acres of Lot 15 of Auditor's Subd of the SW ¼ of Section 7 T109N R18W Kenyon Township. The request is a variance to build an accessory structure 30' from the east property line instead of the required 100' setback in an A-1 Agricultural Protection District.

STAFF REPORT

The Wiegrefe's are requesting a variance to build a replacement garage 70' closer than the required 100'

setback from the property line in an A-1 Agricultural District. The set back requested would be 30'. The Wiegrefe's would like to replace their garage. Their property is approximately 202' in width. Meeting the required setbacks would preclude building any structure more than two feet in width. The township has signed the Zoning Application Summary Form indicating they approve the request.

Staff recommends approval of the variance to build a replacement garage 70' closer than the required 100' setback from the property line in an A-1 Agricultural District. The set back requested would be 30' based on the following findings of fact:

The property is too narrow to allow any building and meet the setbacks in this district. Given the size of the structure and it would meet all other setbacks staff feels it will not be detrimental to the surrounding area. A hardship is present. The property is too narrow for structures to reasonably meet setbacks.

BOA DISCUSSION

Pauline Wiegrefe was present and stated she is requesting a variance to build a garage closer than 100' from their property line. The old garage is not in the same location of the garage they are proposing. She states they are planning on building it 30' from the East property line. She stated their property is only 201'

S. Klair said they couldn't see any other buildings, because they were in the woods.

B. Anderson asked what the red line was on the map.

K. Gross stated that it meant Shoreland.

B. Anderson asked how far they need to be from the Shoreland.

K. Gross stated they need to be 100' from the ordinary high water mark.

B. Anderson clarified that is not the issue though, they just need the variance for the side yard.

C/S. Klair opened the public hearing.

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

Moved by D. Monroe and seconded by B. Anderson and carried to approve the closure of the public hearing. Motion carried 6:0.

M. McKay asked if any of their neighbors have the same issue.

Mrs. Wiegrefe said yes.

M. McKay stated that this goes with the area since the neighbors have the same problems.

[6]

Moved by B. Anderson and seconded by D. Monroe to approve the variance to build an accessory structure 30' from the east property line instead of the required 100' setback in an A-1 Agricultural Protection District based on staff recommendation.

M. McKay said that it conforms to the area so he would go along with it.

Motion carried 6:0.

John Eifert - Pt of N ½ of NW ¼ Section 35 T109N R 16W DOC #500038 Roscoe Township. The request is a variance to build an accessory structure 50' from the south property line and 50' from the west property line instead of the required 100' setback (variance for 50' on south and east lines) OR a variance to build an accessory structure 50' from the east property line (variance for 50') in an A-3 Urban Fringe District.

STAFF REPORT

Mr. Eifert is requesting a variance to setback for an out building in an A-3 Urban Fringe District. Mr. Eifert has two proposals:

#1 Preferred Location

Located fifty (50) feet from the east property line as indicate in the attached drawing.

#2

Located fifty (50) feet from the west property line and fifty (50) from the south property line as indicated.

If the Board chooses to approve one of the options stated above, the other option will have to be denied. The Board may choose to deny both requests. On May 23, 2005 John Eifert requested an appeal that this site would qualify as a replacement dwelling under Article 2 Subd 31 of the Goodhue County Zoning Ordinance and for a variance to move said replacement dwelling 50' from the East property line instead of the required 100' setback (variance for 50'). The variance was approved. The topography of Mr. Eifert's property is such that it is split between an "upper" and "lower" portion. Staff has not yet heard from Roscoe Township on their decision of this request. More information will be forthcoming.

Staff offers the following recommendations for the two requests.

Staff would recommend approval of option #1 - locating the out building 50' from the East property line instead of the required 100' setback (variance for 50'). Based on an existing hardship, the topography of the land creates practical difficulty in locating the out building further from the property line.

If the Board chooses option #1, option #2 would have to be denied.

Article 26, Section 3, Subd. 2 of the Goodhue County Zoning Ordinance states "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."

BOA DISCUSSION

Mr. Eifert stated that he has a signed letter from the neighbor stating he does not have any problems with the request. The number one is more preferable to him, but the number 2 is farther from his home but is more level.

S. Klair asked if he would be bringing in fill for the number one location.

Mr. Eifert stated that what he hopes to do is move the driveway a little bit and where the level ground is now is where the driveway would be built and the driveway would go closer to the sloped portion.

D. Monroe asked what size the pole barn is.

Mr. Eifert said it would be 30x40.

S. Klair said that his house would be tight in there too.

S. Pettit said she brought this up at the last meeting where there was a replacement site and it had to meet the current standards of two septic systems. But they were told with this request that since it was a replacement site it didn't need to meet the current standards.

B. Anderson said that the one we did on June 6, did not have to have two septic sites.

S. Pettit said that if a replacement site goes to a new site it has to meet the new setbacks not just septic but all of them.

K. Gross stated that last month he received a variance to the property line because he was moving the replacement site.

S. Pettit asked if he needs two septic sites for his septic system.

K. Gross said that it is her understanding from environmental health that they do. We do not have the information to know whether or not he has two sites. That would be determined by Environmental Health when his design plans come in.

J. Fritzingler stated that they were concerned about the size of the piece the house was going on and now they are trying to put a shed there to.

Mr. Eifert said that the shed is about 300' from the house site.

C/S. Klair opened the public hearing.

No public comment was given.

Moved by J. Fritzingler and seconded by B. Anderson and carried to approve the closure of the public hearing. Motion carried 6:0.

B. Anderson said that from his point of view he would rather see it in point 1 than point 2.

M. McKay said he agrees and it beats trying to put it over in the driveway section.

[\[7\]](#)

Moved by B. Anderson and seconded by D. Monroe to approve a variance to build an accessory structure 50' from the east property line (variance for 50') in an A-3 Urban Fringe District.

S. Pettit said that she had an issue last time but because he bought the property knowing the setbacks there is not a hardship.

M. McKay asked if the neighbor understood that it takes a variance to do this.

Mr. Eifert said he does.

5:1 Pettit dissenting.

[\[8\]](#)

Moved by B. Anderson and seconded by D. Monroes to deny the variance to build an accessory structure 50' from the south property line and 50' from the west property line instead of the required 100' setback (variance for 50' on south and east lines). Motion carried 6:0.

Brian Haugen – S ½ of NE ¼ Section 23 T109N R15W Pine Island Township. The request is a variance to build an additional dwelling over the allowed four per section in an A-1 Agricultural Protection Zoning District.

STAFF REPORT

Brian Haugen is requesting a variance to the number of buildings in the section to five (5) instead of the required four (4) per section in an A-1 Agricultural Protection Zoning District. Mr. Haugen talked to Land Use Management staff regarding the number of sites in the section. Staff's records indicated that there would be an available site in the section. Staff policy is to suggest that applicants also talk to the township. After Mr. Haugen purchased the property and contacted the township he discovered that Land Use Management's count was not correct and there was one (1) less than records indicated. Pine Island Township has signed the Zoning Application Summary Form which indicated they denied the requested variance.

Staff recommends denial of the variance. Staff makes the assumption that applicants will contact all applicable jurisdictions when making their land use decisions and does not view lack of full information a hardship.

- 1) Zoning Ordinance, Article 26, Section 3, Subdivision 1.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. **There appears to be no special circumstances that do not apply to other property in the same vicinity.***

BOA DISCUSSION

Brian Haugen stated that a hardship has been created here. He stated January 17th the day before he signed the purchase agreement. He checked with Land Use Management and called Kristi and asked her what building sites were available. On January 21st he signed the first purchase agreement. About a month later he asked whether or not they were still buildable. And on March 4th they were closing and he checked again and there were still 2 buildable sites. They checked 4 times and on April 4th the County stated they had made an error there was only one building site available and someone made an application for it. He paid a lot of money for a piece of land that he now cannot build on.

S. Klair said there is a large feedlot by there, would he be far enough away.

Mr. Haugen said that he had 80 acres he would have room to meet setbacks.

S. Pettit asked if he went to the township.

Mr. Haugen said he was before the township in April. He says he is not trying to stretch the rules, change the rules or bend the rules. When he is told on 4 separate occasions there were two building sites available it is kind of a big error that ends up hurting in the long run.

J. Fritzingler asked what the CER is on this land.

Mr. Haugen said it varies.

J. Fritzingler asked if it would meet all other criteria.

Mr. Haugen said yes.

B. Anderson said that it is unfortunate that it he didn't have a stipulation in his purchase agreement that you needed a permit in hand to buy this property. It's unfortunate that his agent did not help him with that.

Mr. Haugen said that he didn't have an agent. This was a private sale and it is a lesson learned. But when he is told on four separate occasions from the land use management office that there are building sites he feels that should be solid.

S. Pettit said she knew about this a long time ago and is confused at why he was told there were two.

K. Gross stated that we keep track of all the dwellings per section in a book and along the way somewhere a house was missed. It was stated in the book that there were two houses in the section then the township heard Mr. Haugen was trying to sell a building site and they called the office to say the section was full. She stated she told the township that if there the county does not receive the building permit request we cannot count that as one of the number of houses in the section. After further investigation it was found there are currently three dwellings in the section and then the building permit application came in for the fourth.

Mr. McKay said that in Mr. Haugen's chronology he stated his agent also called, but he also said it was a private sale.

Mr. Haugen said when he heard there were two sites available he was going to sell 10 acres for a building site and had an agent for that sale.

C/S. Klair opened the public hearing.

Vernitta Paul said that immediately after the property was purchased there was a sign that went up that said there was a 10 acre building site and if he is a hardship case then she has one too and should be able to get a building site. This is prime ag land. She also knows Linda Kelly who was turned down and is closer to town than this.

Richard Staub owns land next to where Mr. Haugen purchased and they went to the township and found there were no permits. If Mr. Haugen gets it to go through they should be able to develop their land also.

Scott Clementson said that they farm right next to this area. It is pretty clear that there are no more building sites in this section. When they put up the turkey barns was a pretty big hassle. To allow another dwelling, this is an ag county, an ag section and we shouldn't go against the rules.

Mr. Haugen asked if he was building the house.

Mr. Clementson said he was.

Stan Burdick said if we have rules, don't we have to go by them. The price they wanted for it was too much and let it go after going to the township and finding out it wasn't buildable.

Kent Haugen said at the time the purchase had taken place they had purchased the land on the regards it was buildable. They wouldn't have bought it otherwise. He wants to get out of the urban area. Yeah it was a hardship because they paid a good price for that land because of those reasons.

Larry Pahl said that he understands that Mr. Haugen has quite a few parcels of land and he should have a clause in the purchase agreement that if it wasn't buildable he could back out. He is not going to put a grain facility here, it is just an investment to make money.

Mr. Haugen said that he did talk to his township because there are moratoriums in the township and there are neighbors all around him.

Harlen Pahl said he has dealt with planning and zoning in a different area. If you want to put a variance to this and you have let yourself wide open for anybody who wants to build a house when there are more than four houses in a section. You have already set precedence.

Moved by D. Monroe and seconded by J. Fritzinger and carried to approve the closure of the public hearing. Motion carried 6:0.

B. Anderson asked if they could build a grain facility on that land.

K. Gross said that would be an accessory to the land.

L. Hanni said that it would be an accessory to the agricultural production of the land so that would be allowed. They wouldn't be able to live there. And just as a reminder in Goodhue County you don't have a building permit until you have a building permit. Building permits are on a first come first serve basis.

B. Anderson asked if the Clementson's have a completed permit.

K. Gross said that they have the zoning approval. They need some more information for the building code but they do have the zoning approval.

L. Hanni said that their zoning permit is good for one year, so they have one year to get everything in.

S. Klair asked Mr. Haugen if he went to the Township at all.

Mr. Haugen said he spoke with his lawyer and he told him to go to the County.

S. Klair said that is rare, usually you start locally and go from there.

S. Pettit said that she is really surprised that he had legal counsel and he did not advise him to put a build ability clause in the purchase agreement. She said she did not have any problem with bringing agriculture into the section and it would be great for the area. But she worked with the turkey facility and they really

had to fight to get ag in ag ground and there were less than four houses in this section. The more houses we allow in these section the harder the battle it would be to have agriculture.

M. McKay said there was a for sale sign up on a 10 acre site.

Mr. Haugen said that he was going to put one house up for sale to pay for his grain facility.

M. McKay said he is confused that he heard through the grape vine that the neighbors were building.

Mr. Haugen said that he had contacted Land Use and they said there were two building sites. He is not trying to take a building site away from anybody and he is not trying to go against the County's rules and regulations. But when he is told on numerous occasions there are two building sites he should be able to build.

M. McKay said that his legal counsel should have told him to talk to the township.

Mr. Haugen said that he grew up in Pine Island Township and he would like to stay in Pine Island Township.

J. Fritzingler said that she is a little concerned that they are relying on the townships and not the county.

Mr. Haugen said he did contact Dave Arndt to find out the rules because Kristi told him to talk to him about the rules of everything. And Dave told him all they do is follow the County' plan. Everything got pushed to Land Use Management.

M. McKay asked when he talked to Dave Arndt if he asked how many sites were available.

Mr. Haugen said he didn't realize he needed to because he was told there were two sites.

L. Hanni said that this is a first come first serve basis. The township is the initial approval and then it goes to the County.

Mr. Haugen asked if the County watches over the townships at everything that happens.

L. Hanni said it depends, some townships have their own zoning.

Mr. Haugen said his hardship is he was told there was two building sites.

L. Hanni said that he just said he talked to Dave Arndt because Kristi told you to.

Mr. Haugen said that Kristi told him to talk to him about setbacks. His hardship is that he wants five houses in this section.

Glen Betcher Pine Island Township supervisor said that Mr. Haugen's dad applied for grain bins two years ago on either his or his grandfather's land and those bins were never built and why would you buy land for a building site for grain facility when you had a permit for grain bins and never built them.

Mr. Haugen said that is a private financial matter and he has his own grain and needs to store his own grain.

[\[9\]](#)

Moved by M. McKay and seconded by B. Anderson to deny a variance to build an additional dwelling over the allowed four per section in an A-1 Agricultural Protection Zoning District based on staff's recommendation and the hardship is self induced and there is always a provision for first come first serve basis.

D. Monroe said that he is concerned that Mr. Haugen realizes that he could still build his grain facility.

Mr. Haugen said that he would like to live next to his grain facility.

Motion carried 6:0

Patrick Franklin – S ½ of SE ¼ Section 7 T111N R16W Belle Creek Township. The request is a variance to build an additional dwelling over the allowed one per ¼, ¼ density requirements in an A-2

Agriculture district.

STAFF REPORT

Patrick Franklin is requesting a variance to build an additional dwelling in the SW ¼ of the SE ¼ of Section 7 in Belle Creek Township T111N R16W, which is an A-2 Agricultural District. Mr. Franklin has stated that he is looking to be able to sell part of his land as a building site and that is why there is a proposed dwelling area on the site plan instead of actual setbacks. Section 7 of Belle Creek Township is zoned A-2 which allows for 12 dwellings in the section, one per ¼, ¼ section and sited on land rated lower than 60 CER with 100' of road frontage. Mr. Franklin's property meets all of the requirements except the ¼, ¼ density requirements. There are currently 6 dwellings located in Section 7 of Belle Creek Twp. The soil is rated Cha – 50 CER, Duf – 15 CER and Rd – 75 CER. The property contains 100' of road frontage. The nearest feedlots to the proposed location is Mr. Franklin's at over 1,000 feet and Russell Forsell's at over 1,500 feet. The township has signed the Zoning Application Summary Form indicating they approve the request. Mr. Franklin stated during the site visit that this request is for financial reasons.

Based on the following findings of fact staff recommends denial of the variance to build an additional dwelling over the allowed one per ¼, ¼ in an A-2 Agricultural Zoning District.

The ¼, ¼ already contains a dwelling so there are no special circumstances or conditions. Granting of the application would alter the essential character of the locality by increasing the density. It could effect other property owners that own ¼, ¼'s that are available for building. There is no hardship. A hardship cannot be financial and the applicant has stated that the request is for financial purposes to be able to sell this as a potential building site.

BOA DISCUSSION

Mr. Franklin states he is asking for a variance for a to the ¼, ¼ density requirement and the township signed off on it. The only reason he is selling this but he is going through a divorce and financially you can make more money for selling a building site off

S. Klair asked how many acres this would involve.

Mr. Franklin said that it would be anywhere from 5-7 acres.

B. Anderson clarified in the staff report that the feedlot is Richard Forsell and not Russell Forsell.

S. Klair said he is having a hard time with what the hardship is.

C/S. Klair opened the public hearing.

Rochelle Nygaard said that she has two sons that would like to build a house on her property in the future and this might put a hardship on the neighbors.

Tom Nygaard was asked to speak for Will O'Reilly and if Mr. Franklin is granted he would like to apply for a permit for a house as well.

Moved by S. Pettit and seconded by J. Fritzinger and carried to approve closure of the public hearing. Motion carried 6:0.

D. Monroe asked what B. Anderson thoughts are after visiting the site.

B. Anderson said that it is a push because there are a lot of sites in that section that would fall under the

60 CER that you need in that area. This would be one less dwelling for some of the others. It isn't the ordinance that has created the hardship. It is the ordinance that has allowed for one dwelling to be sold off from that ¼, ¼ already.

M. McKay asked what the hardship is.

J. Fritzinger said financial.

S. Pettit said that even though they sympathize with his situation they cannot look at financial reasons for hardships.

Mr. Franklin says that if they would get a building site who would you be taking away from then. Who's to say one person can build and the next can't.

S. Klair says that if there are no other houses in the ¼, ¼ they could build if they met all the criteria.

[\[10\]](#)

Moved by S. Pettit and seconded by J. Fritzinger to deny the variance to build an additional dwelling over the allowed one per ¼, ¼ density requirements in an A-2 Agriculture district based on staff recommendations and no hardship. Motion carried 6:0.

Eleanor and Mary Dibble – Pt of N ½ of SE ¼ Section 23 T112N R18W Stanton Township. The request is an appeal to build on land rated at 60 CER instead of the required below 60 CER in an A-2 Agriculture Zoning District and a variance to build on land with 33' of road frontage instead of the required 100' (variance is for 67').

STAFF REPORT

The request is for an **appeal** to build on land at 60 CER instead of the required below 60 CER and for a **variance** to build on land with 33' of road frontage instead of the required 100' of road frontage (variance is for 67') in an A-2 Agriculture Zoning District. Eleanor Dibble is the owner of the subject property. Mary Dibble is her daughter and is the power of attorney for Eleanor Dibble. Mary's daughter, Laura, would like to build a house on the subject property. The daughter plans to split off 5 acres in the future, and in order to split a property and construct a dwelling on a property, the Ordinance requires that the lot contain 100' of road frontage. The property's only existing road frontage lies at the southeast property corner, with only 33' of road frontage onto Stanton Trail. The applicants own the property to the east, which also lies on Stanton Trail, but they are unable to combine the properties to get the required 100' of frontage because the two parcels are located in two different sections. The applicants do not own the property to the south of the subject parcel, and it is not possible for them to acquire more land from that property. Currently, there are 7 dwellings located in the section and no dwellings in the ¼, ¼, so it meets the 12 dwellings per section and the ¼, ¼ requirement. The site plan indicates that the proposed house meets the required setbacks in an A-2 zoning district. According to the applicants, the land has been farmed in the past, but it does not produce a good crop. The Stanton Township Clerk has signed the Zoning Application Summary Form, indicating approval of the request.

Staff offers the following recommendations for the two requests. Based on the following findings of fact, staff would recommend approval of the appeal to build on land at 60 CER instead of the required below 60 CER and of the variance to build on land with 33' of road frontage instead of the required 100' of road frontage:

APPEAL: The subject parcel of land does not produce a good crop so the land is not useful as cropland. VARIANCE: The subject parcel lies at the corner of the section so the applicants cannot acquire more land in order to meet the 100' of road frontage requirement. APPEAL & VARIANCE: Constructing a house on the subject property will not adversely affect the health or safety of the people in the area or be detrimental to

the public welfare or injurious to property or improvements in the area. The only concern would be the access to the public road, but 33' is sufficient frontage in order to provide access. The essential character of the locality is agriculture land, but this particular parcel does not produce a good crop. In addition, constructing a house would not exceed the Ordinance's density requirements. VARIANCE: The layout of the existing property proves to be a hardship for the applicants—it is not possible for them to combine the properties to receive more road frontage because of the section line.

BOA DISCUSSION

Mary Dibble said she is Eleanor's daughter in-law and her power of attorney. Laura and her husband would like to build their house. She reads through the background in the staff report.

S. Pettit asked if the CER is right at 60.

K. Gross said yes it is right at 60.

B. Anderson asked how staff got 33' of road frontage.

C/S. Klair opened the public hearing.

Steve Burstahler said he lives closest to this area and it fits well with the thesis of what's going on there.

Moved by D. Monroe and seconded by B. Anderson and carried to approve the closure of the public hearing. Motion carried 6:0.

[\[11\]](#)

Moved by B. Anderson and seconded by M. McKay and carried to approve appeal to build on land rated at 60 CER instead of the required below 60 CER in an A-2 Agriculture Zoning District and a variance to build on land with 66' of road frontage instead of the required 100' (variance is for 34') to be built as sited. Motion carried 6:0.

Stanton United Methodist Church – Pt of NW ¼ of NW ¼ Section 32 T112N R18W Stanton Township. The request is a variance to build an addition 12' from the Highway 19 right of way instead of the required 60' setback (variance is for 48').
STAFF REPORT

The Stanton United Methodist Church is requesting a variance from the 60' setback from the right-of-way in an A-1 zoning district. The Church is planning to construct an addition onto the existing church to add a lift to make the church handicap-accessible. The Stanton United Methodist Church is located at 1020 Highway 19 Boulevard. The existing building is located 24' from the right-of-way. The existing steps on the front of the church are located 16' from the right-of-way. The proposed addition is 12' deep and located 12' from the road right-of-way. A turn-around driveway access is located on the east side of the church property and continues onto the property to the east. The Stanton Township Clerk has signed the Zoning Application Summary Form indicating that they approve of the variance request.

Staff offers the following recommendations for the request. Based on the following findings of fact, staff would recommend approval of the variance request to construct an addition 12' from the Highway 19 right-of-way based on the following:

The church was constructed many years ago close to the road right-of-way. A church should provide handicap-accessible entrances to its patrons because it is a building that is open to the public. 1) The granting of the variance application will not adversely affect the health or safety of the persons residing or working in the area. The actual right-of-way of Highway 19 Boulevard is a good distance away from the actual road. 2) It will not be

detrimental to the public welfare or injurious to property or improvements in the area—in fact, the addition will improve the area and help the public welfare by making the building more accessible. 3) It will not alter the essential character of the locality because it is an addition to an existing church. 1) The proposed addition is in harmony with the general purposes and intent of the official control. The church is not currently handicap-accessible, and the proposed addition would allow for handicap access, which is in harmony with the Comprehensive Plan. According to the 2004 Goodhue County Comprehensive Plan, Element 2: safety, community support, and mobility all influence the quality of an individual’s experience as a citizen of Goodhue County. Handicap-accessible buildings are an essential part of creating a safe and mobile environment for the public. 2) The church possesses a hardship because it is not accessible to people with handicaps, and because it is not accessible, the Comprehensive Plan’s goal of providing safety and mobility cannot be carried out.

BOA DISCUSSION

Jesse Roberts is the agent for the church. They would like to go 6’ closer to the road. They would like to put a handicap lift in to make the church accessible to wheelchairs. The church was built in 1911 and they hope to have a variance to the right of way setback.

B. Anderson clarified that they would not have access from the North side at all, that would be closed off. Mr. Roberts said this is the only location they can put it.

B. Anderson said he agrees to make it feasible accessible building that is the place to put it.

M. McKay asked if it is still a ways from the right of way.

B. Anderson said that it will be 12’ from the right of way. It is his understanding that MNDOT has ok’ed this

K. Gross said that they have given a verbal approval but did not receive anything in writing. It will be close to the road, but the speed limit is down to 30 there, the church is already closer to the road than the ordinance allows.

S. Pettit clarified that with the addition the sidewalk that goes out to Highway 19 would be closed off so it would be forcing people to come off the road so it would be making the situation safer.

C/S. Klair opened the public hearing.

Robert Benson is the supervisor of Stanton Twp and they went through this. He personally spoke to the MNDOT and they did not have any problems with the request.

Moved by S. Pettit and seconded by D. Monroe and carried to approve the closure of the public hearing. Motion carried 6:0.

[\[12\]](#)

Moved by S. Pettit and seconded by B. Anderson to approve the variance to build an addition 12’ from the Highway 19 right of way instead of the required 60’ setback (variance is for 48’) based on staff’s recommendation.

B. Anderson said he agrees and anything they can do to make buildings handicap accessible within reason is a good thing.

Motion carried 6:0.

Lisa Scheiber – Pt of SW ¼ SW ¼ Section 28 T110N R18W Holden Township. The request is an after the fact variance to build an accessory structure 88’ from the north property line instead of the required 100’ setback (variance is for 12’).

STAFF REPORT

Lisa Schieber is requesting an after-the-fact variance for a 10' by 18' storage shed that is located 88' from the west property line, instead of the required 100' setback to a side property line in an A-1 zoning district. The subject shed is already constructed and located 88' from the west property line, instead of the required 100' setback. The shed was constructed without a permit. A letter dated July 25, 2003, was sent to Monty Scheiber regarding the permit application to construct the shed. The letter indicated that the proposed structure did not comply with the Zoning Ordinance; two complete sets of the final construction plans were needed; and the permit fee was needed. A second letter dated September 23, 2003, was sent to Monty Scheiber stating that the permit application was still incomplete. The Township Application Form/ County Zoning Approval form was signed by Joanne Wood, Zoning Administrator, stating that the zoning application was denied. The Holden Township clerk has signed the form indicating approval of the variance request.

Based on the following findings of fact, staff would recommend denial of the after-the-fact variance for a 10' by 18' storage shed that is located 88' from the west property line, instead of the required 100' setback to a side property line (variance is for 12') in an A-1 zoning district:

There appears to be sufficient area on the property to locate the shed at the required setbacks. The location of the shed does not appear to adversely affect the health or safety of the persons in the area, but the shed is located relatively close to the farmyard of the neighboring property. There does not appear to be any practical difficulties or particular hardship preventing the applicant from placing the shed at the required setbacks.

BOA DISCUSSION

K. Gross states that the request is actually from the north property line, not the west property line as stated in the staff report.

Ms. Scheiber said the building was placed in 2003 by her ex-husband and was contacted by the township clerk to obtain a building permit. The building permit was at first marked approved but was whited out and then checked denied.

D. Monroe asked what the foundation was.

Ms. Scheiber said it was a concrete slab.

C/S. Klair opened the public hearing.

Barb St. John is the clerk in Holden township. She said that it was ok'ed at one time because Joanne did not realize it was not parcel of record. It's an after the fact and it was built without a permit to the township to begin with.

M. McKay clarified that the township has approved this request.

Ms. St. John said that they did not approve the variance, because it does not need a variance. According to the township they had a valid permit.

B. Anderson said that what they did in 2005 was confirmed that it was a valid permit issued in 2003.

Ms. St. John said that they built according to the township standards in 2003. And the township confirmed that this was a valid permit for them.

Ms. Scheiber said she didn't know what was going on it because her ex-husband was working on this.

L. Hanni clarified that if Ms. Scheiber is planning on splitting off another two acres from that five and she is planning on drawing a new property line on the north she cannot split closer than they allow.

B. Anderson said that you cannot create a hardship.

Ms. Scheiber said that she is asking for a variance for the shed.

M. McKay said that if you split that parcel you will have a hard time building anything in the future.

L. Hanni said that if they split and move the north line they are not in compliance with the variance.

K. Gross said that when people come in to split their property we check if there are any structures on the property. If there are they need to meet the current standards for setbacks. So she would not be able to draw a property line any closer than it is currently to the shed without a variance to say it could be that distance.

Moved by B. Anderson and seconded by M. McKay and carried to approve the closure of the public hearing. Motion carried 5:0.

[\[13\]](#)

Moved by M. McKay and seconded by B. Anderson to approve the after the fact variance to build an accessory structure 88' from the west property line instead of the required 100' setback (variance is for 12') based on B. Anderson's opinion that it conforms with the community. Motion carried 6:0.

Discussion: Accessory Structure sizes.

The board discussed accessory structure size limitations.

[\[14\]](#)

Moved by B. Anderson and seconded by D. Monroe to adjourn the June 27, 2005 Board of Adjustment meeting at 9:40 p.m. Motion carried 6:0.

Respectfully Submitted,

Kristi R. Gross

MINUTES

[1]

APPROVE the June 27, 2005 Board of Adjustment Agenda as amended. Motion carried 4:0: Pettit, Fritzinger absent.

[2]

APPROVE the May 23, 2005 Board of Adjustment Minutes as amended. Motion carried 5:0:1 Pettit absent

[3]

APPROVE the June 6, 2005 Board of Adjustment Minutes. Motion carried 5:0:1 Pettit absent.

[4]

APPROVE the variance to build an addition on an accessory structure closer than the required 20' setback from a septic drainfield in a B-2 Highway Business District. Motion carried 6:0.

[5]

APPROVE the variance to register a feedlot 850' from the nearest dwelling instead required minimum 1,000' setback from the nearest dwelling (variance is for 150') based on the goal to preserve agricultural land and recognize this as an existing feedlot. Motion carried 6:0

[6]

APPROVE the variance to build an accessory structure 30' from the east property line instead of the required 100' setback in an A-1 Agricultural Protection District based on staff recommendation. Motion carried 6:0.

[7]

APPROVE a variance to build an accessory structure 50' from the east property line (variance for 50') in an A-3 Urban Fringe District. Motion carried 5:1 Pettit dissenting.

[8]

DENY the variance to build an accessory structure 50' from the south property line and 50' from the west property line instead of the required 100' setback (variance for 50' on south and east lines). Motion carried 6:0.

[9]

DENY a variance to build an additional dwelling over the allowed four per section in an A-1 Agricultural Protection Zoning District based on staff's recommendation and the hardship is self induced and there is always a provision for first come first serve basis. Motion carried 6:0

[10]

DENY the variance to build an additional dwelling over the allowed one per ¼, ¼ density requirements in an A-2 Agriculture district based on staff recommendations and no hardship. Motion carried 6:0.

[11]

APPROVE appeal to build on land rated at 60 CER instead of the required below 60 CER in an A-2 Agriculture Zoning District and a variance to build on land with 66' of road frontage instead of the required 100' (variance is for 34') to be built as sited. Motion carried 6:0.

[12]

APPROVE the appeal to build on 80 CER and not the required less than 60 CER in an Agricultural (A-2) Zoning District based on staff's recommendation. Motion carried 6:0.

[13]

APPROVE the after the fact variance to build an accessory structure 88' from the west property line instead of the required 100' setback (variance is for 12') based on B. Anderson's opinion that it conforms with the community. Motion carried 6:0..

[14]

ADJOURN the June 27, 2005 Board of Adjustment meeting at 9:40 p.m. Motion carried 6:0.