

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

Present:                Richard Sviggum                Conrad Rapp                Stanley Klair                Darwin Fox  
                         Brad Anderson                Lisa Skipton                Joanne Wood

March 22, 2004 agenda: Joanne Wood informed the Board that Greg Peterson's request would not be heard tonight, but next month. A motion was made by Stanley Klair to approve the March 22, 2004 agenda. Seconded by Darwin Fox. Motion carried 5:0.

February 23, 2004 meeting minutes: Darwin Fox made a motion to approve the February 23, 2004 meeting minutes. Seconded by Stanley Klair. Motion carried 5:0.

Staff Updates: Lisa Skipton thanked Richard Sviggum and Conrad Rapp for their service on the Board of Adjustment. She said there will be three new members starting in April: Howard Stenerson, Bill Warmka, Dennis Monroe. She also added that Lavon Augustine will be transferring from the Land Use Management Department in to the Assessors office.

Conflict / Disclosure of Interest: None to be disclosed.

Brady Kells / James Horn – Pt of SE ¼, Section 28, T112N, R14W, Ex 8.25 ac, Hay Creek Township. The request is for a variance to build a dwelling and accessory building 50-ft from the west property line and not the required 100-ft property line setback in an (A-2) Agricultural Zoning District. (tabled from February meeting)

Brady Kells was present and explained he measured all the setbacks since the last meeting and platted out where the house would be located. He would like to change his request from needing a 50-ft variance to only a 25-ft variance for the house. After measuring it appeared to be a better location and he won't be building a shed for some time. He explained the house will be sitting at an angle and only one corner needs to be 75-ft from the west property line rather than the 100-ft setback.

Tom Kohrs was also present and explained that Jim Horn is his Uncle. He said there are a lot of mature trees in the proposed location and by placing the house 75-ft from the west property line, less trees need to be removed. The variance would save a lot of mature trees and Jim Horn would prefer keeping as many as possible. He said the Township Board met at the site and did some measuring also. The Town Board agreed that the 25-ft variance for the house would be best.

Richard Sviggum opened the meeting for public comment.

Dave Diercks was present and explained he is a neighbor and he does not have a problem with the variances.

One Board of Adjustment member visited the site (Sviggum). *There was a motion, second and carried to close the public comment.*

Joanne Wood asked about the driveway and if the Township Board approved it. She said there was originally some concern on the driveway location.

Brady Kells said the Township gave him a permit.

Lisa Skipton said we need the measurements to verify their measurements to what they say.

***Conrad Rapp made a motion to approve the 25-ft variance for the house to be 75-ft from the west property line and we need the site drawing for the file. Seconded by Brad Anderson. Motion carried 5:0.***

Findings: 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 parcel meets all other applicable requirements as outlined in the Zoning Ordinance in the A-2 District, except for the setback on one corner of the parcel.

Gary Diercks – SE ¼ of NW ¼, Section 4, T111N, R15W, Goodhue Township. The request is for an appeal to build a dwelling on land rated 60 CER or greater under the "Ten Year Parcel of Record".

Gary Diercks was present and explained he would like to move a building site from the approved lower CER which is better farm land closer to the road where the soil is rated higher, but is not good farmland and would save tillable ground by reducing the length of the driveway by about 300-ft. He said he will be using the existing field driveway and this has been approved by the Township.

Richard Sviggum opened the meeting for public comment. One Board of Adjustment member visited the site (Sviggum). There

was no one present to speak for or against the request. *There was a motion, second and carried to close the public comment.*

Richard Sviggum said he was out to the site and where they would like to move the site to has shale rock and not good farmland, but the approved site because of the lower CER is actually better farmland. He said it seems like a reasonable request.

***Brad Anderson made a motion to approve the appeal to build a dwelling on the higher CER based on Staff's recommendation. Seconded by Stanley Klair. Motion carried 5:0.***

Findings: Based on the fact the proposed location would disturb less tillable acres by eliminating the access drive across prime tillable land and the site would be located closer to the road. 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.

John Gardiner –NE ¼ of SW ¼, Section 24, T112N, R17W, Cannon Falls Township. The request is for an appeal to move a replacement site further away from the road for a better location.

John Gardiner was present and explained he has a replacement building site with the foundation there, but they are too close to the road and too close to the house that was allowed to build. He said he would like to move the building site to the west to maintain the Township's 1000-ft from the existing house. The road was cut through and the ditch is right up to the existing foundations. The site would move about 600-ft to the west. He showed the Board an aerial photo that showed the old house foundation and the existing Anderson house.

Richard Sviggum opened the meeting for public comment.

Rod Prink was present and said he had some questions. He said he owns 40-acres to the south of John Gardiner's. He asked how many homes were actually available in that section.

Richard Sviggum explained this is an old building site, which is considered a replacement and the numbers in a section were not an issue.

Rod Prink asked if there was a time limit. He asked if the building would need to be put up within a certain amount of time. He also asked what the CER was out there. He asked if he would be able to get a building site on his property.

Joanne Wood suggested Mr. Prink come into the office. She also explained there was no time limit because it is considered a replacement site. She said she was out to the site and the soils are TmC=70. She said the woods are rated the same.

One Board of Adjustment member visited the site (Sviggum). *There was a motion, second and carried to close the public comment.*

Conrad Rapp asked if the 1000-ft spacing was an issue because Cannon Falls does not recognize replacements.

John Gardiner said Cannon Falls Township needs the house standing to be recognized as a replacement site. He said he was to the Township Planning and because the house was not standing, he could not meet the 1000-ft spacing. He said he will need to go back to the Township if the Board of Adjustment approves the move. He said if the Township did not require the 1000-ft spacing, he would still ask to move the site into the woods to get away from being along the road.

***Conrad Rapp made a motion to approve the appeal to move the replacement site based on Staff's Recommendation. Seconded by Stanley Klair. Motion carried 5:0.***

Findings: To locate the replacement dwelling further from the road for a more desirable location based on 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. Moving the site further from the road would be a better location for the building site.

Ron Betzold – Pt of NW ¼ of SE ¼, T111N, R18W, Warsaw Township. The request is for an appeal to build a dwelling on land rated 60 CER or greater under the "Ten Year Parcel of Record".

Tom Carnel was present to represent Ron Betzold. He explained they would like an appeal to build a dwelling on land rated over 60 CER under the Grandfather Clause / Parcel of Record. He said Joanne Wood has a copy of the survey, which indicates this is the only site that meets the 1000-ft spacing between dwellings. The soil in that limited area that meets the 1000-ft spacing is 60 CER and the requirement is under 60 CER. He said the Township has approved the permit subject to the County's Board of Adjustment. He said he staked the area for the site visit. He said they are limited to one site because Rick Samuelson surveyed from the other homes.

Richard Sviggum opened the meeting for public comment. One Board of Adjustment member visited the site (Sviggum). There

was no one present to speak for or against the request. *There was a motion, second and carried to close the public comment.*

Lisa Skipton asked if there were any feedlots out there. She said we need a copy of Warsaw Township's approval.

Tom Carnel said he was not aware of any feedlots. He said the Township would approve the site if the Board of Adjustment approved it tonight.

Richard Sviggum said there haven't been cattle there for years.

***Darwin Fox made a motion to approve the appeal to the soils based on Staff's recommendation. Seconded by Stanley Klair. Motion carried 5:0.***

Findings: To build on soil type rated over 60 CER (TeD=60) based on the fact the bluffland area is protected and there is limited area to build based on the soil ratings. 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 vicinity.

Elbert Makarios – Pt of SE ¼ of SE ¼, Section 3 & NW ¼, Section 11, T111N, R18W, Warsaw Township. The request is for a variance to the ¼, ¼ density requirement in an (A-2) Agricultural zoning district.

Elbert Makarios & Rick Banks were present. Elbert Makarios explained he was present last month and he apologized that he did not give a clear description of what he was asking. He said he sent a letter to the Board of Adjustment. He said Rick Banks will explain things a little better.

Rick Banks was present and explained Mr. Makarios has several building sites available behind his building site. He said originally Mr. Makarios had a second building site in Section 3, but he did not act fast enough and another house was built. He said Mr. Makarios' request is consistent with the Comp Plan because they plan on building on lower rated soils. Rather than disturbing good ag land with a long driveway, it would make better sense to build the home behind the other dwelling. He said Warsaw Township issued a building permit also.

Richard Sviggum said he was out to the site and it was easier to make sense of what the request was compared to looking at an aerial photo.

Richard Sviggum opened the meeting for public comment.

Jim Burkhart was present and said he is an attorney from Cannon Falls and Mr. Makarios asked him to be present tonight. He said he set up the transaction in the thought this would go ahead. He said the Edstrom's built their house a few years ago and the thought was that they would build a driveway for two sites, so they built it along the boundary which did not disturb any ag land. He said it makes more sense to have two homes use one driveway. Mr. Makarios thought he shouldn't have to belabor the issue last month and there must have been some confusion. He said this is not for economics. Mr. Makarios has several building sites available, but wanted to be good land stewards and use one common driveway rather than building one really long driveway. This makes the most sense and is consistent with the rules. He said the Board has granted 18 out of 19 ¼, ¼ requests over the last two years. He said they feel they meet the highest goal of the Comp Plan. This is not simply a factor of economics. He said they ask that the Board follow Staff's recommendation and their trend and allow the building site move.

John Hall was present and explained he is an adjacent property owner. He said last month he spoke against the variance request. He said he has lived there for 29 years and was on the Township Planning Commission when they wrote the Ordinance for Warsaw Township. He said he has been Makarios' neighbor for 14 years. He said keeping and maintaining the character and integrity of the area is to not allow a variance. He said he lived on the Makarios' farm for 9 years and knows the ¼, ¼ they are willing to move from is very visible from the farm. He said he understands completely that they don't want a great big home in their view, just like no one else wants one in their view. He said he drew a square mile and there are 13 homes currently within that square mile. Four of those homes were built within the last five years. He said allowing a 14<sup>th</sup> home is changing the character of the area. He said going south to the other ¼, ¼, there are only four homes in that square mile. He said in terms of density, Sections 2 & 3 are bearing the brunt. He questioned this setting a precedent. He said locating prominent homes really stand out in the neighborhood and aesthetically falls on the entire neighborhood. He said the more homes, the more problems with horses, dogs, and 4-wheelers. He said all the neighbors pay a price when variances are granted too often. He said they are finding more and more that ag and residential don't mix. He said residents are permanent, but the owners may only stay for a few years. The variance will create a blemish on the countryside and it will significantly change the character of the neighborhood.

Lee & Janet Croatt were present. Mr. Croatt said they agreed to purchase the property. He said the Board of Adjustment did not meet in December of 2003 or in January. He said they met with the Township Board and have their building permit. They are planning on building on 40 CER. Density in Section 3 is only 7 when 12 are allowed. He said he met with the Edstroms regarding them building and no one seemed concerned about it. He said the house will be ½ mile off the road and will be lower than the existing house.

Janet Croatt said they have huge gardens and cannot do that on a city lot and need larger acreage. She said she has great

appreciation for the country and they are not out to blemish the land. She said she was raised on a dairy farm.

Jon & Beth Sagers were present and Jon explained they own the property adjoining, directly north of the proposed house location. He said he put a lot of thought into this, but after hearing all the other comments he just wanted to say his main thing is for the Board to consider Article 26 states "the plight of the landowners ..... not created by the landowner". He said Mr. Makarios created his own circumstances and it is for his financial benefit. He said Mr. Makarios has sold one home and the remaining 30-acres are not valueless. He said they moved to the country and were the ones that limited Mr. Makarios. He said if Mr. Makarios would have sold his 2 lots, then Mr. Nelson would not have had the opportunity to sell a building site. So in reverse, their land would not have been buildable. He said Mr. Makarios reaped financial benefit from selling one site for a home. He said he supports John Hall. A lot of existing residents have significant investments based on the current zoning rules. Variances make those rules unpredictable and changes the values of their property because of the aesthetics and potential resale value. He said he lives in the valley and will be looking up at the new home. He said there are some trees, but he will be able to see the new home. He said this is the Sogn Valley area and how do you repair the scenic value. He asked the Board to reconsider and reject the variance request.

Beth Sagers said they looked at Makarios' property the same time they looked at Mr. Nelson's prior to the Edstrom's building. Mr. Makarios knew the other property was for sale and could have marketed the entire parcel rather than asking for a variance for a second site.

Jim Burkhardt said he knows both John Hall and Jon Sagers and said they speak well and from their hearts. He said this is not an issue of density or economic gain for Mr. Makarios. Mr. Makarios is asking to switch building sites which supports the goals of the Comp Plan. Mr. Makarios is allowed one building site. The Township agreed this was a less obstructive route. He said change is always difficult. He said density rules and other rules are being met. He said he asks the Board to follow their 18 out of 19 times they granted  $\frac{1}{4}$ ,  $\frac{1}{4}$  density last two years. This is supporting the Comp Plan and is the best use of the land.

One Board of Adjustment member visited the site (Sviggum). *There was a motion, second and carried to close the public comment.*

Richard Sviggum thanked the public for their comments and professionalism. He said he was out there and it appeared to be a realistic building site. The other site would disrupt a lot of farmland. The driveway exists on the proposed site. He asked the buyers (Croatt) if they would be building close to the trees.

Mr. Croatt said they would be building the home as close to the trees as possible.

**Conrad Rapp made a motion to approve the reassignment from the SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  Section 11 to the SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  Section 3, Warsaw Township. Seconded by Brad Anderson. Motion carried 4:1 with Darwin Fox dissenting.**

Findings: 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. Approving the variance is due to topography and preserving tillable land.

Leslie Schliep – W  $\frac{1}{2}$  of NW  $\frac{1}{4}$  & E  $\frac{1}{2}$  of SW  $\frac{1}{4}$ , Section 20, T109N, R15W, Pine Island Township. The request is for an appeal to move a replacement site from the SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 20 to the SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Section 20.

Leslie Schliep was present and explained he would like to move a replacement site from along Highway 52 in the northeast part of the section and move the site to the southeast corner of 500<sup>th</sup> Street. He said he cannot get access from Highway 52 because of the hill. He said he would need to build a service road to 490<sup>th</sup> Street, so he would like to abandon that site and move it to 500<sup>th</sup> Street. He said the CER is a little higher, but it is a pretty hilly site. He said there is an old hog barn and grainery still standing.

Richard Sviggum opened the meeting for public comment. One Board of Adjustment member visited the site (Sviggum). There was no one present to speak for or against the request. *There was a motion, second and carried to close the public comment.*

Joanne Wood said there was a Donna Matthees in the office today that questioned the site. She was concerned because they are going to close 500<sup>th</sup> Street to Highway 52 and put in a service road up through Mr. Schliep's 80-acres.

There was some discussion on exactly where the service road was going. Leslie Schliep said that is being proposed along the trees on the east side of the proposed site. He said Mr. Olson still lives on the hill, so they must give him access.

**Brad Anderson made a motion to approve the appeal to relocate the replacement site from the SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  to the SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  based on Staff's recommendation. Seco nded by Darwin Fox. Motion carried 5:0.**

Findings: 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.

Orrin Haugen – E ½ of NE ¼, Section 3, T109N, R15W, Lying Sly of Nly R/W of Town Rd, Pine Island Township. The request is for an appeal to remove stipulation the three sites share one well according to variance approved to the ¼, ¼ requirement in an (A-2) Agricultural zoning district.

Orrin Haugen was present and explained about three years ago the Board of Adjustment granted a variance to the ¼, ¼ in Section 2 of Pine Island Township. One of the conditions on the approval was that all three sites share one well. He said they built the road last fall and there are a lot of rocks and the sites are not close enough together to use one well. He said one well would rip up a lot of land.

Richard Sviggum said he does not know why they put the “one well” condition on the variance. He said it is not very practical.

Conrad Rapp said maybe because they assumed the sites were closer.

Joanne Wood said she did not see any discussion of why one well.

Richard Sviggum opened the meeting for public comment. One Board of Adjustment member visited the site (Sviggum). There was no one present to speak for or against the request. *There was a motion, second and carried to close the public comment.*

Darwin Fox said he remembers them considering one driveway, but does not remember one well.

Joanne Wood said after digging through limestone, it would be difficult to put lines in to share one well.

***Darwin Fox made a motion to approve the appeal to remove the three (3) building sites share one well. Seconded by Stanley Klair. Motion carried 5:0.***

Findings: 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 immediate vicinity.

Greg Peterson – not on this month.

Kenneth & JoAnne Ryan – NW ¼ of SW ¼, Section 15, T111N, R16W, Belle Creek Township. The request is for an appeal to build a dwelling on land rated 60 CER or greater under the “Ten Year Parcel of Record”.

Kenneth & JoAnne Ryan were not present.

Joanne Wood said she did not receive a call from the Ryans. The notices went out and they should have received one. According to the Soils map, this property contains quite a bit of prime soil, but there is Gm in the northeast. The Ryan’s would like to move the site closer to the road onto VaA=90 soil in an effort to save some tillable land and not break up their field by the driveway. She said this is under the Grandfather Clause / Parcel of Record. She said apparently this is right next to the town hall, but they did not make it to this site for site visits.

Conrad Rapp said the allowed building site would require a ¼ mile driveway.

Richard Sviggum opened the meeting for public comment. One Board of Adjustment member visited the site (Sviggum). There was no one present to speak for or against the request. *There was a motion, second and carried to close the public comment.*

***Conrad Rapp made a motion to approve the appeal to build a dwelling on soils rated over 60 CER in an effort to preserve prime tillable land for driveway access based on Staff’s recommendation. Seconded by Stanley Klair . Motion carried 5:0.***

Findings: 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 immediate vicinity.

Andrew Lincoln / Marvin Glad – Pt of SW ¼, Section 23, T113N, R16W, Welch Township. The request is for a variance to the ¼, ¼ density requirement in an (A-2) Agricultural zoning district.

Andrew Lincoln & Marvin Glad were present. Andrew Lincoln explained he would like a variance to build a house on top of the hill owned by Marvin Glad. He said he talked to Jonathon Hinsch about moving the driveway down a little bit. He said there is already a trail there and the driveway would not be steep.

Richard Sviggum opened the meeting for public comment.

Dan Peterson & Jon Peterson were present. Jon Peterson said he is present to represent Ron Peterson, his dad, who owns the adjoining property. He asked for clarification on which 40-acre parcel. He said his brother Dan was working with the County and was looking at building on his dad's property. Dan Peterson showed the Board an aerial photo where he planned on building. He said he was in the preliminary stages of building. Dan Peterson said there is physically enough room, but the ¼, ¼ rule concerns him.

Joanne Wood said she has not received anything official from the County Attorney regarding 1/4, 1/4s. In a meeting he (County Attorney) had said even though someone gives up their right to building on their part of the ¼, ¼, the other owner does not give up their right. These decisions are recorded on the applicant's abstract and not the neighbors.

Lisa Skipton said we would need the Attorney's opinion in writing on that.

Joanne Wood told the Petersons they may have to go through the same process to move ¼, 1/4s.

One Board of Adjustment member visited the site (Sviggum). *There was a motion, second and carried to close the public comment.*

Conrad Rapp asked Mr. Lincoln if he had talked to Welch Township.

Darwin Fox said Mr. Lincoln needs a variance and asked Mr. Lincoln if he had the ¼, ¼ variance set up at the Township.

Andrew Lincoln said not yet.

Lisa Skipton asked if this needs 2 variances. One for the full ¼, ¼ and one to move the ¼, ¼.

Joanne Wood said they have transferred from one ¼, ¼ as one variance. She said she was concerned about the road access because she does not want to disturb the bluff. She said they cannot build a driveway through a 30% or greater slope and cannot exceed 14% grade.

Marvin Glad said there is an area with a culvert going through where they had a bike trail.

Darwin Fox said the Township requires a driveway permit and he doesn't believe this is a real steep bank.

***Conrad Rapp made a motion to approve the variance to transfer a building site to the NW ¼ of SW ¼ from the SW ¼ of SW ¼ of Section 23 of Welch Township based on Staff's recommendation and that Welch Township approves the transfer. Seconded by Darwin Fox. Motion carried 5:0.***

Findings: The section is not full, the variance is in harmony with the general purpose and intent of the official controls in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. The variance will not alter the essential character of the locality.

Comprehensive Plan Update: Lisa Skipton said the next Sub-Committee meeting is tomorrow. Things are going well and looking at how to bring this to the Planning Commission and the County Board.

Other Business: Joanne Wood thanked Richard Sviggum and Conrad Rapp for their years they served on the Board of Adjustment. She also thanked Lavon.

Meeting adjourned.

Minutes prepared by Lavon Vieths-Augustine, Zoning Technician / Recording Secretary