

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 Dennis Monroe Brad Anderson  
Lisa Hanni Howard Stenerson

Absent: Mike McKay

[1]

*Motion by S. Klair and seconded by D. Monroe and carried to approve the March 28, 2005 Board of Adjustment Agenda. Motion carries 5:0.*

[2]

*Motion by H. Stenerson and seconded by B. Anderson and carried to approve the March 7, 2005, Board of Adjustment Minutes. Motion carries 5:0.*

Staff Updates: L. Hanni says that last Monday at the Planning Advisory Commission we heard the public hearing for the 58 moratorium sections. The majority said the sections should remain A1 with two going to A2 and the Planning Advisory Commission recommended to the County Board of Commissioners for Section 13 of Leon to change from A-1 to A-2 and the rest of the moratorium sections to remain A-2. The Goodhue County Board of Commissioners will be voting on that April 19, 2005.

We have made an offer to a new zoning technician.

We have had a new appointment for Bill Warmka's position on the Board of Adjustments, he will be attending the April meeting.

Conflict/Disclosure of Interest: none to be discussed.

**Larry Larsen-** Pt of NE ¼ of SE ¼ Section 3 T111N R15W & .03 ac of SE ¼ of NE ¼ including land on both sides of Hwy 58 Goodhue Twp.

Mr. Larsen lives in Section 3 of Goodhue Township. He is requesting a variance to build an accessory structure 80' from the rear (east) property line instead of the 100' required setback. The variance would be for 20'. This parcel is approximately 7.5 acres but is split in half by State Highway 58. The portion that Mr. Larsen would like to build this accessory building on is 231' wide according to the survey submitted by Mr. Larsen. Mr. Larsen has four existing accessory buildings on this property in addition to his residence. The new shed would be located behind an existing structure to block the view from the road. During a site visit by staff it was observed that Mr. Larsen has posted signage advertising a storage facility on this property. Operating a storage facility in this location is in direct conflict with the Goodhue County Zoning Ordinance.

Based on the information presented thus far, staff would recommend denial of a variance for an accessory structure to be located 75 ft. from the east property line and not the required 100 ft. property line setback (variance is for 25 ft) based on the plight of the landowner is due to circumstances created by the landowner; and the variance will alter the essential character of the locality.

Mr. Larsen says that he asks for a variance for a building and that it is for a heated shop as an accessory building. There are two buildings on the outside of the road that are old. He can build a new building for 1/3 of the cost of remodeling the old building. When he bought the property there was a 60' setback but then they changed the zoning to 100' setback. This would be for personal use. He is thinking if he sells this property it would be better for a farmer to buy.

C/D. Fox clarifies the request is to build an accessory building 80' from the rear property line instead of the 100' required setback.

Mr. Larsen says that he included a survey that better depicts the lot size and setbacks from the existing buildings than the aerial photo. He says that he has some old cars. They rent all their buildings in the city of Goodhue for the business. This is a personal building.

S. Klair asks if he is going to take down the other buildings?

Mr. Larsen says that the property was owned by Jim Hinsch and the buildings were there. One of the buildings was built in 1962. The other building was built by a builder that no longer lives around here and the poles were not set on frost footings and shifts between winter and summer. The property is only 231' wide. If he thought it was going to be a problem getting the variance he wouldn't have come forward.

B. Anderson asks what the distance between the new building and the pole building would be.

Mr. Larsen says that it is about 33'. He wanted enough room for drainage between the buildings.

H. Stenerson asks which buildings involve storage.

Mr. Larsen says that all the buildings except the old building are used for storage. He says that he has asked for something to be addressed in the ordinance. He has asked what can be outside and what can be inside. If he owns something it can be outside. If he doesn't own it, it can't be outside. He says they have cleaned the property up and have tried to be good neighbors.

H. Stenerson asks if any of the buildings are rented out right now or if they use it for personal use.

Mr. Larsen says he uses two buildings for himself. The storage business is not as good as it use to be. The buildings only have 5' sidewalls.

*C/D. Fox opened the public hearing.*

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

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

L. Hanni says his drawing says 75' to 80'. Does he still want a 20' variance?

Mr. Larsen says he measured it at 79'.

L. Hanni asks if he wants a 21' variance.

Mr. Larsen says he does.

S. Klair asks if he tore down the old building would the new building meet the setback.

B. Anderson says he needs 60' from the right of way and 100' from the back there just isn't enough room on this property either way.

Mr. Larsen says that the topography of the land doesn't allow him to put it anywhere else.

B. Anderson asks where his septic is.

Mr. Larsen shows him on the map where the septic and well are located.

H. Stenerson asks K. Gross about the topography of the land.

K. Gross says that where he is proposing the building it would be the best place for a building.

Mr. Larsen says that there is a lot of property but not a lot of places to build.

H. Stenerson asks if they put the building there would there be enough room for a second septic location?

Mr. Larsen says the well and septic guy was supposed to come out and they haven't done so yet, but he would think it would fit behind the house.

**[3]**

***Moved by B. Anderson and seconded by S. Klair to approve the variance to build a dwelling 79' from the East property line instead of the required 100' setback (variance is for 21') in an A-1 Agricultural Protection district based on the lot size and the location of the house and septic. Motion carries 5:0.***

**Gerald McNamara** – Pt of NW ¼ Section 26 T109N R15W Pine Island Twp.

Mr. McNamara is requesting to build an accessory building 4000 square feet instead of the allotted 2400 square feet in an A-1 Agricultural Protection District (variance for 1,600 feet). Mr. McNamara owns a 5 acre parcel in Pine Island Township on which he is proposing to build an accessory building to be used as a storage area and a shop. Staff was unable to perform a site visit. From looking at the aerial map the land is surrounded by agricultural uses. The Zoning Application Form has been signed by the Pine Island Township Clerk indicating the township has approved the request.

Based on the information presented thus far, staff would recommend denial of the proposed structure at 4,000 sq. ft. (1,600 sq. ft. variance) based on no existing hardship. The plight of the landowner is not due to circumstances unique to the property and is created by the landowner. The variance is not 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.

Mr. McNamara says that they have 5 acres in Pine Island Twp. Half would be for a shop and half would be for storage. He would like to have it all in one building. It would look nicer.

H. Stenerson asks for clarification on the 5 acres the aerial photo does not have it surveyed off.

S. Klair asks if he repairs snowmobiles for other people or for himself.

Mr. McNamara says it is his business.

L. Hanni says that is another issue.

*C/D. Fox opened the public hearing*

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

*Moved by S. Klair and seconded by B. Anderson and carried to approve the closure of the public hearing. Motion carried 5:0.*

H. Stenerson asks if he needs a CUP for the repair shop.

K. Gross says that this is a home occupation and he has been issued a Land Use Permit for that.

S. Klair says this is another one where they could put up two buildings.

B. Anderson says that it takes less space with one.

Mr. McNamara says it looks nicer with only one building also.

L. Hanni asks how many buildings are out there.

Mr. McNamara says there are none.

D. Monroe asks about a house.

Mr. McNamara says they are working on that they just got their building permit for it.

B. Anderson asks about the well.

Mr. McNamara points it out and says that it was there and has been tested and ok'ed.

**[4]**

*Moved by H. Stenerson and seconded by B. Anderson and carried to approve the variance to build an accessory structure 4,000 square feet instead of the allotted 2,400 square feet (variance is for 1,600 sq ft) in an A-2 Agricultural District based on the previous actions on these same requests. Motion carried by 5:0*

**Deb Emery** – N ½ of NE ¼ & SE ¼ of NE ¼ Section 4 T111N R18W Warsaw Twp.

Ms. Emery is requesting a variance to move a building site from parcel number 41-033-0400 which is the

S ½ of the SE ¼ of Section 33 T111N R18W to parcel number 45-004-0200 which is the N ½ of NE ¼ and SE ¼ of NE ¼ Sec 4 T111N R18W.

If the Emery's came in today the parcel in Section 33 of Stanton Township would be buildable according to the requirements of the Goodhue County Zoning Ordinance. It is zoned A1 Agricultural Protection District and there are currently 3 houses in the section. If they were to do this they would need to run their driveway through an existing field to get back to the site. They are hoping to move the site to their parcel in Section 4 of Warsaw Township in order to preserve the agricultural land. The parcel in Section 4 of Warsaw Township is not buildable because the section is full. There are currently six (6) dwellings in the section and four (4) are allowed. This is a unique situation because their land covers two townships. Staff has asked that both townships be involved and both have signed off on the Zoning Application Summary Form with approval. Due to the fact that we analyze building permits and locations on a first come first serve basis this variance would not guarantee a building site. If Section 33 of Stanton Township would become full before the Emery's applied for their permit this site would no longer be buildable. Since this site is located in the A1 Agricultural Protection District the County does not look at CER values when looking at the location of the dwelling. If the variance is granted staff will have Steve Schmidt determine the OFFSET rating from the Soule property to make sure the proposed house wouldn't be any closer than allowed. In a preliminary conversation with Steve Schmidt the County Feedlot Officer he believed from the size of Mr. Soule's feedlot the 1,000 ft setback would kick in.

Based on the information presented thus far staff would recommend approval for a variance to move a building site from parcel 41-033-0400 to parcel 45-004-0200 as long as parcel 41-033-0400 is buildable according to the Goodhue County Zoning Ordinance based on the following findings of fact:

A hardship was proven. The transfer is to preserve agricultural land which is in harmony with the general purpose and intent of the official control. The plight of the landowner is due to circumstances unique to the property and is not created by the landowner.

Ms. Emery says that they would like to build a second house but there are no building permits available in their section. There is a building permit available in Section 33. There son would be living there, they would not be selling it off. They didn't want to destroy any more farm land by having to build back in Section 33.

H. Stenerson asks where they would access if they built in Stanton Township.

Ms. Emery says they would access the field road.

H. Stenerson says that there is no other township road that abuts that property. He asks how far the proposed site would be from the Soule's property.

L. Hanni says the site plan shows about 1400 feet from the house and another 400' from the property line.

Ms. Emery says that it would probably be farther from the nearest property owner than it is shown.

*C/D. Fox opened the public hearing*

Greg Soule is the adjoining property owner hands out a copy of the state statute that says what you need to get a variance. He also wants to point out there is an existing farm road that goes all the way back to Section 33 that the Emery's wouldn't have to tear up the field.

L. Hanni asks if he is opposed.

Mr. Soule says that they wouldn't have to run a new road back to section 33. He can't see the hardship. The land can be put to reasonable use without the variance. He also wants to point out that there is only suppose to be four dwellings in Section 4 and there are already 6. The economics doesn't qualify the hardship. He hopes that they would deny the request. If they happen to grant it perhaps they could put a condition on it that the buildings be back over the hill so that he can't see them. If he can't see the

buildings he doesn't care.

H. Stenerson asks if the group of trees is a low land or water run.

Ms. Emery says that it is low land and a water way. There are no roads past the trees.

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

L. Hanni says the Statute that he handed out is the municipality version. The county version is virtually the same.

D. Monroe says if we move it into a section that already has more dwellings than allowed. What kind of precedence would we be setting? How do more dwelling come into the section.

L. Hanni says that some of them could have been built before the ordinance was in effect or it could have been a replacement site. She says that they could build in Stanton Township.

K. Gross clarifies that the way staff is looking at this request is that if the board would grant this request it would be buildable as long as Section 33 of Stanton is buildable. If Section 33 in Stanton fills up before the Emery's would get their permit this would no longer be buildable. This would not be guaranteeing a building site for an undetermined amount of time.

C/D. Fox says that this is a tough one for him. He says that he has a hard time seeing how this would hold up. They had one a few years ago which they did deny because it could create another dwelling in the section they took away from.

B. Anderson asks if they got Township input back when they received that request.

C/D. Fox says that they did not get any opposition for the other one.

B. Anderson says that you are taking an dwelling from a lower density section to a higher density section in an Agricultural Protection District. You are balancing a lot of stuff.

L. Hanni says that there are only 4 in A-1 districts because most of the land is rated at a higher crop equivalency rating.

B. Anderson asks if they have a spot in Section 4 of Warsaw.

K. Gross says that they are still working with the township to get the exact site.

C/D. Fox asks if anyone is present from Warsaw Township that could explain the Township's views.

Ron Dohman from Warsaw Township says on that piece of land in Section 4 if there are spaces that would meet those criteria of CER under 60, and 1,000 feet from the nearest dwelling they would have a building site.

Ms. Emery says that it is hard to see how it happens that anybody is able to build with the CER as high as it is in that section.

C/D. Fox asks if they would have to meet CER requirements from the county.

L. Hanni says no because it is zoned A-1 and we don't look at CER in A-1 zones.

H. Stenerson says that the lowest CER is back in the wooded water run. If they have to be back that far they might as well put it back in Section 33.

Mr. Dohman says that everybody has been so hung up on CER ratings. More damage has been done by people running driveways through fields to get back to the lower CER's than to just put the house closer to the road. He says he doesn't feel that it protects Ag land. He says that you get so overwhelmed by no growth. We have a lot of junk land in Warsaw Township that you get taxed 3,000 dollars for land you can't do anything with. He should have said something last week at the meeting about the moratorium sections.

C/D. Fox asks if that is his thoughts why did he deny the variance.

He says he was not at that meeting. He says he doesn't know how it was approached.

L. Hanni says that the CER thing that they are looking at is a township issue.

C/D. Fox says

Mr. Dohman says that it seems that some supervisors find a way to stop someone from doing something instead of finding a way that it can be done.

H. Stenerson says that they have granted these in the past so that they don't have to run a long road through a field. Regardless of the differences of the Townships this could happen anyway between sections and we would have to make sure that it is well documented.

L. Hanni asks if they approve this if they would consider the compromise offered from Mr. Soule

H. Stenerson asks how we can approve this with conditions.

L. Hanni says you can approve a variance to meet certain standards.

H. Stenerson says he is inclined to move toward approval in the back part of the field away from the Soule's property.

B. Anderson says that he agrees with that but let the township handle the placement of the dwelling. We wouldn't want to say she had to put it in a place the township wouldn't agree with.

Ms. Emery asks if they approve this could she still build in Section 33?

L. Hanni says that they would be transferring that to Section 4 so they would have to build somewhere on that Section 4 parcel.

Ms. Emery says that she is not going to pay Warsaw another \$500 for them to deny it again and she doesn't want to lose her right completely. She withdraws her request.

C/D. Fox clarifies that she would like to withdraw.

Ms. Emery restates she would like to withdraw her request.

[5]

***Moved by B. Anderson seconded by S. Klair to accept the withdrawal from Deb Emery for the appeal to transfer a buildable site from Section 33 T112N R18W Stanton Township to Section 4 T111N R18W Warsaw Township . Motion carries 5:0.***

There is a discussion with the public regarding CER ratings and how accurate they actually are.

The Board discusses accessory buildings. What qualifies as an agricultural building and they would like a copy of the definition of an agriculture building.

They also talked about commercial storage in the Agricultural District.

[6]

***Moved by D. Monroe seconded by B. Anderson to adjourn the March 7, 2005 Board of Adjustment meeting. Motion carries 5:0. Meeting Adjourned 8:45 p.m.***

Respectfully Submitted,

Kristi Gross  
Zoning Technician/Recording Secretary



# MINUTES

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[1]

APPROVE the March 28, 2005, Board of Adjustment Agenda (Motion carries 4:0)

[2]

APPROVE the March 7, 2005, Board of Adjustment Minutes as amended (Motion carries 4:0)

[3]

APPROVE the variance to build a dwelling 79' from the East property line instead of the required 100' setback (variance is for 21') in an A-1 Agricultural Protection district based on the lot size and the location of the house and septic. Motion carries 5:0.

[4]

APPROVE the variance to build an accessory structure 4,000 square feet instead of the allotted 2,400 square feet (variance is for 1,600 sq ft) in an A-2 Agricultural District based on the previous actions on these same requests. Motion carried by 5:0

[5]

ACCEPT the WITHDRAWAL from Deb Emery for the appeal to transfer a buildable site from Section 33 T112N R18W Stanton Township to Section 4 T111N R18W Warsaw Township . Motion carries 5:0.

[6]

Meeting Adjourned 8:45 pm