

Goodhue County Board of Adjustment
Tuesday, May 27, 2003, 7:00 p.m.
Goodhue County Justice Center - Jury Assembly Room
454 West Sixth Street, Red Wing MN 55066

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: Chairman Richard Sviggum, Brad Anderson, Darwin Fox, Stanley Klair, Conrad Rapp, Lisa Skipton, and Joanne Wood.

Lisa Skipton stated that Lavon was on vacation. Carol Greenlee took the minutes for the May 27, 2003 Board of Adjustment meeting.

Conrad Rapp made a motion to approve the May 27, 2003 agenda. Seconded by Brad Anderson. Motion carried 5:0.

Darwin Fox made a motion to approve the March 24, 2003 meeting minutes. Seconded by Stanley Klair. Motioned carried 5:0.

Conflict / Disclosure of Interest - None to be disclosed.

Jerry Taube – Pt of S ½ of NE ¼, Sec 2, T111N, R18W, Warsaw Twp. Request is for a variance to build an accessory building 1,600 square feet over the 2,400 square feet limit (100 x 40 = 4000).

Mr. Jerry Taube was present and stated that he was seeking a variance to build a larger machine shed than the 2,400 square foot limit. He stated that he needed that size and height of a building for the equipment for his business. He stated that he currently had one machine shed that was too small and non-insurable. He also had a smaller building that was basically considered junk. This proposed building would take the place of the other two buildings he described. He stated that currently his equipment was sitting outside.

Chairman Sviggum opened the meeting for public comment. *Stanley Klair made a motion to close the public hearing. Seconded by Brad Anderson. Motion passed 5:0.*

Stanley Klair stated he had made a site visit to the Taube residence and stated that there was a lot of equipment sitting outside. Stanley stated that most of the equipment looked as if it would be for Mr. Taube's septic business.

Chairman Sviggum asked if the other sheds had been torn down or if they were still useful.

Mr. Taube stated that the sheds had already been torn down because they were not insurable and would have come down whether this was approved or not.

Ms. Wood stated that the Taube residence was on a very isolated, dead end road.

Mr. Taube stated that none of his neighbors had a view of the building or his property.

Stanley Klair made a motion to grant the variance request to build an accessory building 1,600 sq ft over the 2,400 sq ft limit (100 x 40 = 4,000). Seconded by Darwin Fox. Motion passed 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 applicant is proposing to remove two structures and replace them with one larger structure. The property is located on a dead end road with no close residences where the proposed she is being located.

Gary Schmidgall / Ms. Joanne Kaye – Pt of SE ¼ of SW ¼, Sec 25, T112N, R18W, Stanton Township. The request is for a variance to build an agriculture building 50-ft from the Ordinary High Water Mark (OHWM) & not the required 100-ft setback. Also a variance to build the agriculture building 35-ft from the road right-of-way & not the required 60-ft road right-of-way setback.

Mr. Gary Schmidgall was present. He stated that Ms. Joanne Kaye was one of the owners of the property that the Schmidgall's were looking to close on Friday, May 30, 2003. He stated that Ms. Kaye was no longer occupying the residence. The Schmidgall's request was for a variance to build a small shed to house a horse, pony and a donkey. The reason for the variance was because there was very limited room by the Little Cannon River for an adequate site. The request was to put up a building closer to the river. Mr. Schmidgall stated that they had sent information to the Township. The Township stated that they would not look at the proposed location until the Schmidgalls owned the property. Mr. Schmidgall stated that the property was where the Old Oxford Mill was located. He stated that when Joanne Wood and Stanley Klair did a site visit, he pointed out that the top part of the mill was deteriorating and they were limited in the location of putting the new building too close to the mill without possible problems of it falling in the future. He understood that the DNR recommendation was to place it closer to the mill. He was unsure if it was clear in the aerial photo that the mill was a 50 foot structure.

Joanne Wood stated that there was a letter handed out from the DNR indicating that the building could be shifted more to the North to reach the 100 foot set back. She also handed out a map indicating the topography. She asked Mr. Schmidgall if he had received a survey of the land. Mr. Schmidgall stated he had not received it.

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Joanne stated that there was some concern on the map that Oxford Mill may even be in the right of way of Oxford Mill Road. There was also a question of it being in a flood plain. Mr. Schmidgall stated that he believed that side, by the mill, was in a flood plain and that was why they strategically chose that location. It was the highest part of the whole area. He stated that Joanne made the comment that if they went on the house side of the road, it would be too close to the hill. Joanne stated that he was pretty limited by where he could put the building.

Joanne stated that Rick Samuelson was going to be doing a survey which would indicate the elevation and indicate if it was in a flood plain. Mr. Schmidgall stated that he had the elevation. The river was 846 and where they planned to put the building was at 845.4. Mr. Schmidgall understood that he would have to bring at least two feet of fill in.

Joanne stated that the elevation would need to be established, submitted on his plan, and then surveyed. If it was determined to be in a flood plain, the fill would have to be filled one foot above the Regulatory Flood Protection Elevation. This would be determined through the building permit process.

Mr. Schmidgall stated that he believed the mill would be grandfathered in because it was located 15 feet from the side of the road.

Lisa stated that it would be grandfathered in, but typically it should be 33 feet back from the center line, the right of way. She stated that when the bridge was built back in 1974 it was indicated on the bridge map that the Oxford Mill was in the right of way. She referred to the elevations of the bridge and questioned that in 1974 it was put at 848. At that level it would only put it two feet above the bridge. She believed the elevation needed to be verified.

Lisa stated that the highway department indicated that the new bridge was at 848. Brad Anderson asked if it was from the bottom or the deck. Lisa stated that she believed it was the deck. It did not make sense with the river elevation being at 846 as that was only two feet above the water. Mr. Schmidgall stated that the 846 was the OHWD, high water mark, it was not the current elevation.

Lisa stated that the other information she received from the highway department was that there was a permanent easement that the Township had from the center of the river going North 114 feet by 15 feet on the right of way. That would have to be taken into consideration when the building was ok. It would include the right of way and then another 15 feet over and 114 feet North.

Mr. Schmidgall stated that that would be to the North of the river and that would encapsulate the whole area. Lisa stated that the Township had a permanent easement for bridge and roadway. Mr. Schmidgall asked if that would be for 15 feet. Lisa stated that it would be 15 feet wide outside the current right of way and then 114 feet from the center of the river North.

Mr. Schmidgall stated that the current right of way was 33 feet from the center line. He stated that they would be looking at 50 feet, which was almost exactly where he was putting it.

Lisa stated that it needed to be off the right of way. The map was showing 35 feet from the edge of the physical road. She stated that the map indicated the edge of the road. It would need to go from the center of the road, 33 feet out, plus another 15 feet from the center of the river and North 114 feet which includes another 15 foot piece of right of way.

Mr. Schmidgall stated that the mill location was 82 – 86 feet from the side of the river. He stated that if the Township kept the easement in place, there was no way they would pass this unless he also got a variance from them. Lisa stated that they kept it that way to be able to do maintenance on the bridge or the road way. Lisa believed that the bridge needed to be moved from its original plan because it was not working out.

Mr. Paul Slauter stated that there were remains of the foundation of the first mill on the South side of the river so they built a curved bridge to avoid the foundation of the first mill.

Lisa stated that after receiving the survey, it could be better determined how it could be plotted out.

Chairman Sviggum stated that it was 114 feet from the center of the river, it would encompass just about all of the mill. Lisa stated that the right of way curved and that it looked like it might go right up to it.

Mr. Schmidgall stated that he was not aware of the bridge and road right of way or else he would not have wasted the Boards time until he worked with the Township on this.

Chairman Sviggum opened the meeting for public comment.

Ms. Rose Slauter a soon to be neighbor. She read about this in the paper. She did not want to be shocked by something that just went up and wanted the opportunity to talk with Mr. Schmidgall to see what his plans where. She stated that the bluffs

being his home and the Oxford Mill was one of the most photographed areas of Goodhue County. She wanted to see it preserved.

Mr. Schmidgall stated that one of the reasons they purchased the property was to try to bring it back to the way it was 25 years ago. He liked the mill and would put in a building to make it all look nice. Ms. Slaughter stated that maybe there could be a way to make it work out.

Mr. Schmidgall stated that they would privately own that mill and his concern was that people did like to photograph it, what would happen if they got clunked on the head by fallen stone. He was concerned as to who would be responsible for that.

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Ms. Slaughter stated that a past owner stated that there were no funds available to tear it down, but there could be funding to update it. Mr. Schmidgall stated that he wanted to get moved in and in the future do something with the mill.

Paul Slaughter stated that the mill was in the right of way, he stated that the house was flooded in 1998 and that Oxford Mill Road was wiped out.

Darwin Fox made a motion to close the public hearing. Seconded by Stanley Klair. Motion passed 5:0.

Lisa stated that one thing she and Joanne had spoken about was to table this until they received an elevation survey so it was better understood where the easement and elevations where.

Mr. Schmidgall asked if there was a way he could get direction on how to move forward or if this was even feasible to pursue.

Joanne stated that she would certainly let him know any further information that they found out. She stated that if it was tabled for a month, they would be better prepared to provide a recommendation with the new information they had just received today.

Conrad asked if the information that had just been presented by Lisa would be available to Rick Samuelson, the surveyor. The drawing could be prepared more precisely.

Lisa stated that it would be made available to Rick to allow him to finish the survey.

Darwin Fox motioned to table until the June meeting to allow for more information from the survey to be gathered. Seconded by Brad Anderson. Motion passed 5:0.

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Brian Carlin – Lot 3 & 4, Block 4 of Woodland Heights, T112N, R18W, Stanton Township. The request is for a variance to build an accessory building 400 sq ft over the 800 sq ft limit (40 x 30 = 1200) & to locate the accessory building 10-ft from the septic drain field & not the required 20-ft setback.

Mr. Brian Carlin was present and stated that he requested to build a garage size of 1,200 square feet. The variance was for 400 square feet over the 800 square feet limit for less than one acre. It would also be located approximately 10 feet from one of his septic drain field lines. The required setback was 20 feet.

Joanne stated that she had talked with Environmental Health and asked about the 10 foot set back. Since there was not a basement involved, there should not be an impact on the drain field. She asked if Mr. Carlin would he be willing to move it 10 feet closer to the road.

Mr. Carlin stated that he would like to keep it in line with his current house and garage. He did not feel that his neighbors would like it if he set it 10 feet closer to the street.

Chairman Sviggum asked if it would be a storage shed for personal use. Mr. Carlin stated that it would be a fully sided garage on a cement slab and finished to match the exterior of his home.

Stanley asked if it would be any higher than the existing buildings. Mr. Carlin stated that it would be 10 foot walls, but it would fit in.

Chairman Sviggum opened the meeting for public comment.

Conrad Rapp motioned to close the public hearing. Seconded by Stanley Klair. Motion passed 5:0.

Chairman Sviggum asked how big the lot size was. Mr. Carlin stated that it was .87 of an acre. He stated that it was over an acre but there was an easement on the backside of the lot for a driveway that goes to existing houses. He believed they took 30 feet off the lot other wise it would have been over an acre and then the size would have been ok.

Chairman Sviggum asked Mr. Klair if it fit into the area. Stanley stated it did. Mr. Carlin stated that other neighbors had also

built stand alone garages.

Darwin Fox motioned to approve the variance to build an accessory structure 400 square feet over the 800 square foot limit and to locate it 10 feet from the septic drain field and not the required 20 feet. Seconded by Stanley Klair. Motion passed 5:0.

Findings: To approve the size of the structure and setback from the drainfield based on limited area to build the structure and the variance will not alter the essential character of the area. 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.

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Marlin Rude – Pt of S ½ of SW ¼ & Pt of SE ¼, Sec 11, T109N, R16W, Roscoe Township. The request is for an appeal to build a dwelling on land rated over 60 CER and not the required less than 60 CER under the "Ten Year Parcel of Record".

Mr. Marlin Rude was present and stated that his request was to build a house in a wooded 88 acre parcel. He would like to sell approximately 10 acres of the woods to a neighbor. He stated that he did not want to sell any crop land, he only wanted to sell the wooded area.

Chairman Sviggum asked what the CER was. Joanne stated that it was a 70-90 CER based on the fact that there was some wet area. She wanted to know why they left it wood land and did not till. Part of the reasoning was that it was wet and not an easy area to till. That was why it was rated at 70 – 90. She did a site visit with Stanley and stated that most of the property was pretty highly rated and fairly wet.

Chairman Sviggum opened the meeting for public comment. *Stanley Klair motioned to close the public hearing. Seconded by Brad Anderson. Motion passed 5:0.*

Conrad asked if there was a parcel of record and instead of putting it in a cropped area he wanted it in the wooded area. He asked if Mr. Rude had a building site as a parcel of record. Joanne stated that he did have a building site as parcel of record except that the CER was too high whether it was in the agricultural land or the woods. She stated that the building site he was looking at was in the wooded area. She stated that under the previous ordinance the CER did not matter if it was farmland or pasture. They went by the soil books and the soil maps indicated it had a high CER and that it was not buildable. He was asking for an appeal to build on the higher CER.

Conrad stated that all of the land was probably over 60 CER. Joanne stated that that was correct.

Stanley Klair motioned to grant the appeal to build a dwelling on land rated over 60 CER. Seconded by Conrad Rapp. Motion passed 5:0.

Findings: There were special circumstances affecting the land, building, or use referred to in the appeal that do not apply generally to other property in the same vicinity. This is a very heavily wooded site which is a poorly drained location. __

Rodney Johnson – E ¾ of N ½ of NW ¼ of SE ¼, Sec 17, T111N, R17W, Leon Township. The request is for a variance to build another dwelling over the 12 allowed per section in an (A-2) Agricultural zoning district.

Mr. Rodney Johnson was present. He stated that approximately 15 years ago they had purchased a little over 15 acres that at the time was considered a buildable site. His request was to secure a building permit for a dwelling. He presented a sketch from Rapp Land Surveying that indicates the layout and he also included an aerial map of the site. From his house they could get 1,000 feet but it would be a 39% slope. They could get 715 feet where it would be a level spot to put a dwelling.

Chairman Sviggum asked if it came under the grandfather clause. Joanne stated it did and indicated that in her report it could be buildable under the parcel of record except it did not meet the 1,000 foot spacing. She stated that a variance could not be applied for a 1,000 rule. She stated that he was applying for the number of dwellings in the section. There were currently 19 dwellings in the section. The Board had in the past move the site due to topography if there was a slope at the point of the 1,000 foot rule based on the parcel of record.

Joanne stated that she had shared with Mr. Johnson that he could not apply for the variance for the 1,000 foot spacing. She was not clear on the Township, if they had the 1,000 foot rule.

Brad stated that Leon Township had the 1,000 foot rule on less than 40 acre parcels. He stated that this parcel was approximately 15 feet. He stated that Mr. Johnson had applied for a variance in Leon Township but the meeting had not occurred at this time.

Joanne stated that the land would be unbuildable as the 15 acres. She asked Mr. Johnson if he bought it 10 years ago and if he planned to build on it. Mr. Johnson stated that he bought it roughly 10 years ago with the intent to build on it. He had kept

100 feet of road frontage.

Chairman Sviggum asked if there was a 1,000 foot possibility in there. Joanne stated that he could get the 1,000 feet but it would be at a 39% slope.

Conrad asked if the recommendation was to move the site 250 feet closer to the nearest dwelling. Joanne stated that the recommendation might be wrong, it could be 715 feet which would make it closer to 300 feet.

Chairman Sviggum opened the meeting for public comment. *Darwin Fox motioned to close the public hearing. Seconded by Conrad Rapp. Motioned passed 5:0.*

Chairman Sviggum asked if the request was for the 1,000 feet to 285 feet or the 13 to 12 or both. If it comes down to the grandfather the density did not come into play. Joanne stated they were looking at 1,000 feet based on density and that he could only get 715 feet. They would be looking at both.

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She asked Mr. Johnson if it was a 39% slope across the property. She stated they were not able to make a site visit. Mr. Johnson stated that that was correct, pretty much the whole South side.

Stanley Klair asked if this had been discussed at the Township? Brad stated that Mr. Johnson had applied for a variance, but it had not been discussed at a meeting.

Conrad asked Stanley what his observation was on the lay of the land. Stanley stated that he did not walk too far because it was very wooded. He stated that they could see that it dropped off by the Edgewood. Joanne added that they were not able to get pictures of the site. Mr. Johnson stated that he had taken pictures but it did not give justice to how steep the land was.

Brad stated that by the map the parcel goes back and then runs along Maple Way. Mr. Johnson stated that it was probably Highway 52.

Stanley asked Brad what the Township had granted in the past. Brad stated that he did not sit on that Board but he had known that they had moved sites to allow less than 1,000 feet.

Joanne asked Mr. Johnson if at the time they bought the building did he have plans to build on it. Mr. Johnson stated that when he bought the property, the previous owner was going to build a house and rent it out. Mr. Johnson was not interested in a rental property located by them with the owner living in California. He spoke with the previous owner and was able to purchase it. When he bought it, he had all intentions to build on it.

Joanne stated that the 1,000 feet would have been in place at the time that he bought it. Ms. Johnson stated that the previous owner had told them that he had the permits and that he had the ok to build. The previous owner stated that it was a grandfather clause and that it was a build able site. Joanne stated that prior to 1993 they did have to apply for a variance of 1,000 foot spaces. She stated that she had not looking in the file to see if there is record of that. She suggested possibly looking closer at it.

Conrad Rapp motioned to table the issue until the June meeting to get more information and to do a site visit. Seconded by Stanley Klair. Motion passed 5:0.

Conrad added that he would like to see what Leon Township decided prior to making a recommendation. His thoughts were that maybe further information would come from the Township that could help with the decision making process.

Ms. Johnson asked if they needed to make the arrangements for the site visit. Joanne stated that she would be in contact with them to set up the visit. Ms. Johnson asked if there were to meet with the Township prior to meeting back with the Board. Joanne stated that they should meet with the Township and then come back to the Board. She stated that she would research the files to see if there was any further information that could be added to their case.

Anthony Gilles – Pt of SE ¼ of SW ¼, Sec 11, T112N, R15W, Featherstone Township. The request is for a variance to build an addition to an accessory building that exceeds the 1200 sq ft limit & to locate the accessory building within the 30-ft property line setback.

Mr. Anthony Giles was present and stated that he would like to double the size of his existing garage. He stated that the back of the proposed garage would come within the 30 foot set back. It would come within 9 – 10 feet from the 30 foot set back.

Chairman Sviggum asked what it would be used for storage. Mr. Giles stated that it would be used for vehicles and recreational vehicles.

Joanne asked if the existing garage was purchased with the property or if he had it built. Mr. Giles stated that it was there when they bought the property.

Chairman Sviggum asked if it would be added on to the existing garage. Mr. Giles stated that he would be adding onto the existing garage.

Chairman Sviggum asked for dimensions. He stated that the actual size of the proposed building was not indicated. Mr. Giles stated he would like it to be a 36 x 36 foot building which would exceed the 1,200 square feet or he could go with a 35 x 34 which would be under the 1,200 sq feet. He stated that he preferred the 36 x 36 foot building.

Chairman Sviggum asked if the 1,200 square feet would be total, including the existing garage or would it be the addition. Mr. Giles stated that it would be the addition only. The current garage was 18 x 24 feet.

Joanne stated that it would be more than just the addition it would be the entire project.

Stanley Klair asked if it would be connected to the existing garage. He stated that it would be equal with the front, but extend out the back further. Mr. Giles stated that that was correct.

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Joanne stated that there were no dwellings around his property.

Conrad asked if Mr. Johnson was asking for a variance of 728 foot. Mr. Giles stated that it would not be a pull shed. It would be a garage that would look nice.

Joanne asked where the rear property line was. Mr. Giles stated that it was approx 18 – 20 feet behind the existing garage. He stated that there was a fence line and that he would only be going an additional 10 feet closer to the property line than his existing garage.

Joanne asked what the set back would be? Mr. Giles stated that it would put the set back at approximately 10 feet from the property line. He stated that he was land locked with his neighbor. He stated that he and the neighbor had been in close contact and that the neighbor was willing to do what he needed to do to help him get the garage up.

Stanley stated that there was no chance of anyone building behind him because of the step slope. Mr. Giles stated that that was correct.

Chairman Sviggum opened the meeting for public comment.

Conrad Rapp motioned to close the public hearing. Seconded by Stanley Klair. Motion passed 5:0.

Conrad Rapp motioned to grant the variance of 728 square feet over the 1,200 square foot limit and grant the variance of 20 foot from the property line. Seconded by Brad Anderson. Motion passed 5:0.

Findings: The plight of the landowner is due to circumstances unique to his property not created by the landowner and the variance will not alter the essential character of the locality.

Alan Miller – Pt of SW ¼ of NE ¼ & Pt of SE ¼, Sec 18, T112N, R13W, Florence Township. The request is for an appeal to build a dwelling on land rated over 60 CER and not the required less than 60 CER under the "Ten Year Parcel of Record".

Alan Miller was not present – he was represented by Tim Nybo, broker at Cowell Banker Realestate in Red Wing, as Mr. Miller lived in Texas. Mr. Miller had a 74 acre parcel off of County 2 Boulevard and Circle S Road. He contacted Mr. Nybo about five months ago and wanted to sell it. It was currently being leased as farmland. It was a grandfathered site that was good until June of 2004. Mr. Nybo stated that in researching it, it did have a permanent easement for a driveway that comes off of County Road 2 Blvd, Circle S intersection area.

It goes through Rick Rodewalls area. Mr. Nybo and Mr. Rodewall have been working on an agreement for an easement for the driveway. The easement was in place, but he was working on a better easement description. The request was the CER equivalent to where the building site would be exceeds the current values that were appropriate for a building site They were looking to appeal that CER so the house could be built at a point at the end of a field. The property comes out to a peninsula and drops off on all sides. The peninsula is an odd place to go out and plow up a field.

Joanne stated that the map that was handed out incorrectly stated where the site was located. She did not actually get up to the site to see it. The map indicated that it was tillable and then dropped off to rough land all around it. The area was rated at a 65 or 70. The other concern was that the driveway access goes up. She had concern about the driveway being too steep. Mr. Nybo stated that there was currently a field road that went up to the site. They have had Jason Petersen and Barney Fluger check on the driveway as far as the slope and the grade. Barney stated that there was no problem with the grade on that road. It was an odd property in the fact that other than the easement for the driveway, it was pretty much land locked. The driveway measures 6,000 feet from County Road 2 where it would start to the building site. The closest neighbor was Rick Rodewall who

lives right below the bluff line. There were adjacent owners and the DNR.

Lisa asked if Mr. Miller would have to have ownership of the driveway. Joanne stated that not under the parcel record, they would need a minimum of 40 acres with 20 tillable for it to be deemed a farm. And it did not require having road frontage. The easement worked in this case. If the driveway was over 200 feet in length it needed to have a 14 foot wide driving surface. If they had a farm the only criteria was that it could not be built on a high CER.

Chairman Sviggum opened the meeting for public comment.

Comment by Judy Johnson, she lives in Section 18. Not speaking for or against the proposal, just conveying that Florence Township is going through community based planning. She wanted to convey that the preservation of farm land was an issue at each of the meetings she had attended.

Comment by Paul Slueter, Stanton. He was wondering about the bluff requirement and if there were any bluff standards.

Joanne stated that on the map the site was in a different location. It was wet the day they wanted to go out there. It was tillable and then it dropped off. Joanne stated that the other concern was that the driveway access was too steep. Mr. Nybo stated that there was currently a field road that went up to the bluff.

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Comment by Randy Clark. He stated that he currently has a purchase agreement with Rick Rolderwald where the easement would go through, he was agreeable with the variance. Joanne asked Mr. Clark if he had any issue with the easement. Mr. Clark stated that he did not.

Joanne asked if the Township had reviewed this. Mr. Nybo stated he had not.

Stanley Klair motioned to close the public hearing. Seconded by Mr. Fox. Motion passed 5:0.

Chairman Sviggum stated that the CER was roughly 70. Brad asked if there was any CER under 60? Joanne was not sure. Under the parcel of record TOB was 65. She stated there was no land under 60 CER. Ms. Wood stated that this was similar to the Hay Creek Township.

Stanley asked what the grade percent was for a driveway. Joanne stated that it was 14%.

Stanley Klair motioned to grant as an appeal, provided they can get a driveway less than 14%. Seconded by Darwin Fox. Motion passed 5:0.

Findings: There are special circumstances affecting the land, building, or use referred to in the appeal that do not apply generally to other property in the same vicinity.

Ralph & Irene Clemens / Jeffrey & Deloris Clemens – Pt of E ½ of NW ¼, Sec 5, T112N, R16W, Vasa Township. The request is an appeal to locate a mobile home as a second farm dwelling outside the farmyard in an (A-2) Agricultural zoning district.

Jeff and Deloris Clemens were present. Mr. Clemens stated that they were here to get approval for a second farm dwelling outside the farmyard. For the reason that there was no place to put another dwelling in the farmyard..

Chairman Sviggum stated that currently there was a camper on the site that they were using for residence and had been since 1991. Mr. Clemens stated that that was correct.

Joanne described, in the pictures that had been handed to the Board, the location where Mr. Clemens had proposed to put the house.

Lisa stated that the Clemens came in for a conditional use permit this past November, it had been denied by the Planning Commission and the County Board of Commissioners. They also had the building official look at their current situation. It was a camper that had been added onto and then they had added a septic system to it. After their request had been denied, the County had sent a letter informing the Clements that they needed to dismantle the permanent residence before June 1st. That is why they are before the Board of Adjustments prior to June 1st.

Joanne stated that in addition to that, back in 1997 or 1998 she was out to look at the site and at that time she sent Mr. Jeff Clemens a letter to bring their current situation into compliance. Mr. Clemens came in and applied for the conditional use, as Lisa mentioned, which was denied. Joanne stated that she did send Mr. Clemens a letter that he had to move anything that was permanent out there. She continued that Mr. Clemens had indicated to her that his Mom and Dad were both in poor health and that they had some horses and some pasture land.

Joanne stated that the minimums requirement was 40 acres with 20 tillable to be considered a farm and to have a second farm

dwelling on that. They could do so provided it was located in the farm yard. Ralph and Irene's farm yard has a septic behind it. Joanne stated that there was current pasture area that could be tilled, it was currently not in crops. The minimum acres for being a farm were 20 acres and she believed that based on what the assessors office indicated as 21 tillable acres.

Chairman Sviggum asked if there was an existing house. He also asked if the mobile home would replace the camper and the camper would be removed. Joanne stated that the camper would be removed and he would put in a module, the application listed a mobile home, but it would be a module without a basement. She stated that Mr. Clemens would dismantle the camper and all the existing buildings and put in a module home and locate it back toward the woods more.

Joanne indicated where the Mom and Dad lived and where Mr. Clemens sister were located. She indicated where Jeff's land was.

Ms. Wood stated that Mr. Clemens parents were living up at the main farm and that they were both in poor health and he was helping them out and that they were gone usually in the winter. Mr. Clemens stated that his Father was going out to North Dakota soon because he had a farm out there and that he needed to take care of the farm.

Lisa asked how many buildings were in that section? Joanne stated that she was unsure, but that it was over twelve. Lisa stated that it was already over the limit. Joanne stated that that was correct.

Joanne stated that what Mr. Clemens was asking for was a second farm dwelling to help Mom and Dad out with some of the duties i.e., feeding the horses and maybe looking after Mom and Dad a little bit.

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Chairman Sviggum asked Mr. Clemens if his Mother also went to North Dakota. Mr. Clemens stated that that was correct. Ms. Wood asked if they have a farm in North Dakota? Mr. Clemens stated, yes. He stated that his Mom and Delores helped each other out because Delores just had open-heart surgery a while back.

Mr. Chairman Sviggum asked for public comment:

Comment: Mr. Alan Vaugh lived across the road. He stated that he was present in November when Mr. Clemens stated that it was "his" land and that he was going to live on it. He stated that the original farm had been divided seven times. He was not sure when Joanne came up with the 21 acres. He had called Marlene at the FCA. She stated that there were 5.4 acres tillable acres owned by Ralph Clemens. He believed that issue needed to be addressed. He spoke with one of the Planning Advisory people who went out and looked at it who stated that more than one acre had been taken up with Ralph's new driveway, and Jeff's new driveway, the septic systems and the yard which puts it below the 20 acres even if there were 20 acres.

Mr. Vaugh stated that the buildings that Joanne referred to were old wooden garages that had been trucked in there and that they did not have permits for them. The neighbors were told that the Clements could not keep them there. But now the neighbors were being told they could be used as farm buildings. He stated that it was not straightforward. He stated that some of the people had looked at it but it was incredible. Vasa Township stated that they were not for this as it was against their code. He stated that two other Clemens sisters lived closer to the parent's house than what Jeff would be. He stated that one of the sisters or her husband owned some of the horses. He believed that what it came down to was the meeting in November was denied and this was an end run around it. His family would like to see it denied.

Comment: Mr. Darrel Peterson, 13501 Sunset Trail, directly to the East of the Clemens. He stated that in addition to the concerns already stated to which he concurred, his property was located approximately 400 - 460 yard to their current site, he believed the 1,000 foot law was still in place. He was not sure if this was an appeal because they brought in a new issue - changing it to a farm consideration from what was brought before the Planning Commission.

Comment: Mr. Vince Gerten, 13218 Sunset Trail, right across the road from Ralph and Irene. He believed that the appeal was properly before the Board and that the appeal had merit. He stated that based on that, he was asking for full consideration and was speaking in favor and would implore that the Board seen fit to grant the appeal.

Comment: Ms. Julie Lee, 13911 Sunset Trail, a couple of houses down from the Clemens. She stated that it was an unfortunate incident to have to be pitting neighbors against neighbors. She stated that she had requested the report and had unfortunately only received pages one and two which she believed put her at a disadvantage for tonight in being able to speak the way she had hoped to. She agreed with Mr. Vaugh that the assessment was a concern for her as to what was tillable and what was not. She would like to state that she did not believe this was a good permanent decision. They were over in the number of houses in their area, it sets a real bad precedence for future building. In the last two weeks there had been a house trucked in that was sitting on land that was also without permits.

She stated that the situation has been going on since 1991 and no one had asked the questions of if the septic system was just installed in 2002 what had been happening over the past ten years. She believes there were a lot of issues that had been brought before several groups before and she respectfully submits that this request be denied.

Comment: Mr. John Rosenwald, lives on Wild Plum Lane. He asked if he could speak directly with Joanne. He stated that Joanne stated that Jeff and Delores Clemens had been residing in a camper on Ralph and Irene's property. He asked if she knew for sure that it was theirs. Mr. Rosenwald stated that at the meeting in November Mr. Jeff Clemens stated that it was "his"

five acres and he would do as he pleased. He stated that Mr. Jeff Clemens had been getting by for eleven years and that all this did was field his hobbies.

Comment: Ms. Jackie Petersen, 13501 Sunset Trail, directly to the East of the Clemens property. She stated that she had called Joanne after the November meeting and stated that the main thing was that he was within 1,000 feet. It was only on 5 acres so they could not consider the total Clemens property because that was a whole other property that was not in his farmyard. He owned the five acres so it was a definition of terms. She stated that she had also called Joanne and stated that out in the front of his land where many vehicles. She had asked Joanne to have him clean up his act. She stated that what he had done was moved all of his junk cars, which is a violation, and moved them to the back of the woods. He had no respect for the land.

Comment: Mr. Rick Eastling (SP) 13911 Sunset Trail. He stated that as Jackie had mentioned they had made several phone calls to Lisa and Joanne and he stated that the issue that disturbs him the most is permits. They had just put an addition onto their house and paid \$1,000 for the building permit and did everything like they were supposed to do. No phone calls back from neither Lisa nor Joanne. He stated that the Clemens could live there for 11 years and not have any permits. They could even put a septic system in without permits.

Mr. Jeff Clemens stated that there were permits on the septic system, and that he borrowed money from the County. Mr. Eastling (SP) asked how he could put a septic system on a temporary home. It should not be there without a permit, it would be like putting one on a tent.

Joanne stated that there was a permit on the septic system. Mr. Eastling (SP) asked if he had a housing permit to be there.

Joanne stated no.

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Mr. Eastling stated that he questioned the 21 tillable acres. There were not 21 tillable acres there. What would they do with all the horses if they did get the permit. Mr. Clemens stated that he would have to pasture some of the woods. Mr. Eastling (SP) stated, on five acres? Mr. Clemens stated that he had a quick claim deed and he would sign it back to his Dad.

Mr. Eastling (SP) stated that the response from the County Office had not been very well and that he paid his permit and they did not have to pay a permit for living there for the past 11 years.

Comment: Mr. Terry Carlson, lived in Vasa township almost all his life. He can't figure out what was going on. He stated that Mr. Clemens had been living there for over 10 years and now he was being told to leave his home. As far as looking junky, there were junk yards out in Vasa. He stated that down number 7, he counted 13 cars in one guys place last fall. He continued by stating that there were two trailers parked right next to each other - on that same lot. Mr. Clemens kept a fairly neat yard and he paid his taxes. He did not know why he was being told he had to leave.

Comment: Mr. Chuck Morton, lives in Grapevine, Texas. He stated that if someone was breaking the law for 12 years does that mean it was ok in the year 13? He stated that it was kind of a slap to the zoning commission, "I don't care what you say, I am going to do what I say." If you are wrong, you are wrong.

Comment: Mr. John Rosenwald, stated that getting back to the taxes, how could you say the man pays taxes when he doesn't even own any property.

Mr. Clemens asked Mr. Rosenwald if he would like to see the taxes. He stated that he paid taxes just like Mr. Rosenwald did. Mr. Rosenwald asked if it was listed in his name. Mr. Clemens stated that it was. Mr. Rosenwald asked why the request stated that it was his Fathers property. Mr. Clemens stated that he had five acres in his name. He had a quick claim deed and would sign it just to give it back to his Dad. Mr. Clemens stated that he paid \$2,000 per acre for it.

Joanne stated that she had some comments to make. Chairman Sviggum stated that Joanne would make some comments after the public comment.

Mr. Rosenwald stated that at the meeting in November the item of the health problems of Delores was brought up. Mr. Rosenwald stated that his wife asked the neighbor of Delores Father how Delores was doing. He answered running around her fathers yard, no longer needs extra blankets and doing wonderful.

He replied that a lot of us need medical health, but we do not need a trailer to supply it for us.

Comment: Mr. Darrel Peterson. Stated that the issue was not new, before the County nor the Township, this had been going on since the beginning, the concern, the directions and so forth.

Comment: Mr. Richard Leary, 13223 Sunset Trail. He asked why this had taken 10 – 12 years to come to a head. Everyone in this room would agree that this place has got to be cleaned up. If this was an opportunity to be cleaned up he would be all for it. He was not sure of the rules, but it was obvious that there had to be a lot of variances that had to be waived because it was not up to the regulations of the township and the County. If it would make an improvement to the neighborhood he was all for it.

Comment: Mr. Allan Vaughn. He stated that he never liked to cast blame, but he had spoken to County Commissioners. And this all comes back to the fact that the way the petition was presented to this Board was that it was presented in the most

favorable way by the person who drafted it. It was a real concern. He had addressed Joanne in the past asking her to do something about this. He understood someone stating that they have sympathy, but for twelve years. He stated that she kept telling and telling that she was going to do something. He stated that a none compliant property could not be brought into code just by giving somebody a variance. He had 80 acres, give him a bunch of building permits, he had 4 kids and they would all love that. Let's get real here about what was going on.

Brad Anderson motion to close the public hearing. Seconded by Stanley Klair. Motion passed 5:0.

Joanne stated that one of the issues was that there was not enough tillable on the property. They generally go by what the assessors record were and they showed that there was 21 tillable acres on the property. Whether it was being tilled or not was not the issue. It was what the value of the property was; it could be pasture land and still be considered tillable ground, even though it was not currently being tilled. She spoke with Steve Hilergren this morning and he stated that they had not taken any action and would leave it up to the county and let the county decide.

Joanne stated that the septic system was permitted in 2002 and put in. When they looked at septic systems they were not always put in just for dwellings, they could put one in for a shed. If they get a permit and it is approved by the Environmental Health Department they could put in a septic.

Joanne stated the in regard to the 5 acres – it was her understanding that Mr. Clemens did create a five-acre parcel that Dad deeded to him. He was stating that he would deed it back into Dad's land that was part of the tillable.

Joanne stated that in regard to cleaning up his junk. She would agree that Dads property had quit a bit of stuff around, or whatever you wanted to call it. She stated that she had questioned Mr. Clements about that and Mr. Clements stated that he was going to try to get through some of Dads stuff and clean it up.

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Joanne stated that they had moved in buildings but she believed a couple of the buildings were being used for the horses, hay and equipment for the horses. She stated that prior to 1991 it was not her responsibility, it was under her predecessor. When she came into it and realized that there were complaints filed, lots of people that called about this issue. It was not her job at that time to take care of it. In 1998 when she became the zoning administrator is when she started to become involved with it. Where she had some authority to take action on it. Since that time, she had spoken with Mr. Clemens. She realized that there had been some problems out there. She had talked to Mr. Clements, looked at the property and required him to come in for a conditional use permit trying to get him into compliance. He did that, he was denied. She stated she had sent him a letter stating he had to remove any permanent structures that did not have permits or at least to get the permits. She stated that it was ok to reside in a camper without a permit. She had a conversation with Steve Betcher, County Attorney. He had provided a list of other items that she included in her recommended resolution. Is the property a farm?

In some situations they do want to locate these buildings outside the farm yard in an effort to preserve tillable land. One of the things in the ordinance was to preserve tillable land. In some cases, the way the ordinance was written they could put it in the farmyard even though it wasn't tillable land. Was Mr. Clemens considered farm labor? She stated that they do not define how much a person has to work on a farm, how many animals units they have to have to be considered a farm. All they looked at was 40 acres with 20 tillable was considered a farm. It used to be 80 acres with 40 tillable to have a second farm dwelling. In 1993 when they changed the ordinance it went to 40 acres with 20 tillable. There could be a second farm dwelling with 40 acres with 20 tillable. Or they could have a third farm dwelling on 40 acres with 20 tillable. It was an issue sometimes when people wanted to put on a second farm dwelling whether or not it was or wasn't in the farmyard. Is it an appeal?

She doesn't know, in this case, and she believed Mr. Betcher would agree that it was an appeal based on the fact that it was outside the farmyard. Another discussion they had was if it could be considered part of the farmyard. She stated that this was what her and Mr. Betcher came up with as part of the recommendation.

Lisa asked Joanne if she was saying that the request was not for a second dwelling on the farmyard, that now it was for variance to the number of dwellings in the section? Joanne stated that it was an appeal to the farmyard. She stated that Mr. Betcher was suggesting that they look at that, in this case the farmyard being more just where the buildings were. Not just based on what the layout was.

Lisa made a comment about the comprehensive planning meetings that they had been having. She stated that they had heard loud and clear that buildings should stay near the cities and not be shotgun throughout the County. Her concern with having the home located on the other side of the property was for fear that at a later date, that breaks off and they sell off the parents farmyard and now something had been created that they had been hearing that the community did not want to have happen. She believed the intention of putting it in the farmyard was for that exact scenario that later on they did not have pieces breaking off. She summed it up by stating that the 54 acres that the Father had, now had five sites on it with individual houses all indicating that they were farmyards and all helping the farm out.

Conrad agreed and stated that they had also had comments about the second farm dwelling. Almost all the comments were that the second farm dwellings should actually be physically in the farmyard whenever possible. Conrad stated that in this case, he was confused, had they already split off the five acres? In the request it stated that the land was owned by his parents. What we are trying to have not happen is having five acre parcels split off from the farm dwelling. He was confused that that had already happened.

Joanne stated that the five acre split had occurred around the buildings that Mr. Clemens had. She stated that in an effort to meet the minimum standards, Jeff was willing to deed that back. She stated that what Dad did was deeded the land to his kids. So each had a chunk of land. Mr. Clemens has considered deeding this back to Mom and Dad.

Conrad corrected that it would be "selling it back," he stated that Mr. Clemens just got done stating that he had bought it, so he must be going to sell it back. Mr. Clemens stated yes, and that he had the quick claim deed all drawn up. Conrad stated that what he understood was that there were already a couple of siblings that were in even closer proximity than what he would be to the parent's property. Mr. Clemens stated that he had two sisters. Conrad asked if they would be closer than what he would be. Mr. Clemens stated yes. Conrad asked if they had any part of the care of the maintenance of the farm or the parents. Mr. Clemens stated no, that they had their own family and other property in Wisconsin.

Stanley asked if the five acres being talked was the pasture out in front of them. Joanne indicated on the map where the five acres would be. Stanley stated that it would be the field right in front of them. Joanne stated part of it, not all of it. She stated that Dad owned part of it, and the five acres would be 100 feet one way and then it would be branched out.

Brad stated that it basically was another parcel looking like the one that was already there. Lisa stated that technically he was going for another building in the section, because he was already a parcel. Joanne stated that that was correct, but he was going to deed it back to Mom and Dad.

Lisa stated that right now that had not happened and had not been recorded. Joanne stated that it had not happened but that he was prepared to do it. Mr. Clemens stated that his attorney advised him not to record it until after the meeting.

Chairman Sviggum asked if it was deeded back to the original farm and they get the second farm dwelling then they could deed it back again, the five acres split. Joanne stated that he may.

Conrad stated that Mr. Clemens request was an appeal to locate a mobile home as a second farm dwelling outside the farmyard in an (A-2) Agricultural Zoning District. If he owns the property, what are we doing here?

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Joanne asked if he deeded it back then came back or what? Conrad stated that this was not the place where to tell people to cheat. Conrad stated that his request was for a second farm dwelling, a mobile home, outside the farmyard. Conrad stated that Mr. Clemens had already stated that he owned the property but was going to give it back so he could do this. He continued by stating that there was a lot of fuzzy gray areas. He stated that Mr. Clemens already confirmed that he had family closer than he has. He was not making a determination to whether his parents needed medical care or not, he could not speak to that. The request was for a second farm dwelling outside the farmyard and almost the way it read he was asking for another one.

Joanne asked if he deeded it back and then came back here, would it make a difference to the Board?

Conrad stated that he could not speak to that issue. He stated that the request was that he was asking for a second farm dwelling and if he already owned the land than this request did not make much sense to him.

Stanley stated that he had been to the site and he believed if a second building could be built up by the current buildings on agricultural land that is where it should be. This splitting off from the farm site was something he did not agree with. He believed that there was plenty of room to put it by the existing buildings. They would have to get into the hay field a little bit. It looked to him to be like it was another split.

Chairman Sviggum asked Stanley whether Mr. Clemens had the five acres or deeded it back would it make a difference to him. Stanley stated no.

Stanley Klair motioned that the appeal be denied. Seconded by Conrad Rapp. Motion approved 5:0.

Fact and findings: The Board found that the applicant has sufficient room to locate the second farm dwelling in the farmyard and there is no special circumstances affecting the land, building, or use referred to in the appeal that do not apply generally to other property in the same vicinity.

Jodi Boser – Pt of Govt Lot 4, Sec 26, T113N, R14W, Wacouta Township. Request is a variance to build a deck 17-ft from a bluff and not the required 30-ft bluff setback & locate the deck within the Bluff Impact Zone in an (R-1) Suburban Residential zoning district.

Jodi and Vern Boser were present. Mr. Boser stated that the request was to build a deck 17 feet from the bluff, impact zone. Mr. Boser provided some background information on the situation. He stated that initially the house was to be a walk out onto a patio and that the doors were to be ground level. He stated that Barney Flueger suggested a walk out basement. There was very little discussion between Barney, the builder and Mr. & Mrs. Boser. That is how the house proceeded. The next thing they knew, they had a doorway four feet above the ground and Ms. Boser did not even take into consideration the set back that they would need because of having to have deck put on.

Mr. Boser stated that 5 or 6 of the Planning Commission came out and looked it over and viewed the bluff and all but one agreed that the deck should continue as it was begun to be established. They recommended to the Board that it was ok and that it would pass. At the Township meeting it was denied, he believed it was over powered by a strong personality on the Board to take the deck off the house.

Mr. Boser stated that they were unsure about how they should do this. The deck had already begun to be built. He stated that he had spoken with a Board member and asked about options. It was determined to take the deck off the house. At that point, he was unsure how high to put the deck. He stated that some of the Board came over and shared that he should talk with Joanne and Fred Plaas. He stated that he asked Mr. Plass how they could sort this out. Between Fred and Joanne they came up with the idea that if it was 18 inches off the ground it should work and would not impact view from the river.

Mr. Boser stated that they had applied for the permit. And this is where they were at. They had not been back to the Township, however they had removed the deck and took it off the impact zone. He stated that the Planning Commission was all in favor except for one member. He stated that they still needed to talk to the Township.

Chairman Sviggum stated that the deck was no longer there, but they wanted to put a deck back on.

Ms. Boser stated that the whole thing had been handled improperly by her builder. She accepted that responsibility. She was not aware of the zoning rights and that was why she hired a builder. She believed that he tried to supercede something he should not have done. She stated that the Township truly had a problem because of that and she understood them being upset. She would just like to come up with a solution that everyone could be happy with. She was really hoping to live her for the next 30 – 40 years.

Joanne stated that the deck had been taken down, but that the cement pads were still there. She stated what the Boser's had proposed to move the deck down to 18 inches and detach it from the house. They would not need a building permit under the building code. She stated that a zoning permit would still be needed because it was a set back from the bluff and in the bluff impact zone.

Even if it was moved down 18 inches, because the cement pads were put in the bluff impact zone. If they were removed, you could not excavate or fill in a bluff impact zone. So if they were removed, the variance would not be needed. But if they were kept there, the variance would be needed.

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Joanne stated that she had spoken with someone from the Township and that this had totally been denied, that they were told to remove the deck and that it had not come back to the Township with any type of plan. She stated that if the Township was going to deny this there was no sense coming here.

Ms. Boser stated that it never went back to the Township with a plan because they were trying to get information on what would be acceptable. Nothing came to an agreement, so nothing was drawn up. They decided to pull the deck off and reapply after the six month waiting period.

Conrad asked if they could put steps to the doors. Joanne stated that they could not excavate in a bluff impact zone. She stated that the house was 30 feet from the bluff. From the house to the bluff was the bluff impact zone.

Conrad asked if the Township approved the drawing of the plans. Joanne stated that the plans changed and that the deck was an afterthought. It was initially to be a walk out. The plans changed and the builder did not get a permit for the deck. The Boser's got caught in the middle of it.

Ms. Boser stated that she believed that the Township was being overly cautious and looked at things individually and automatically stating no based on a recent court case.

Chairman Sviggum asked what would be considered excavation: that you could not take a shovel to it. Joanne stated that the bluff was very fragile and in eroding form. It was a real concern to the Township. The wind and the rain erode the bluff and it was creating a problem. There could be some excavating if it was for erosion control measures that must be controlled by the DNR and the Zoning Department.

Joanne stated that in this case, Ms. Boser is approximately 1,000 feet away from the lake. The erosion problems occurred further down the bluff. It was highly vegetated on the bluff that Ms. Boser lived on. Within the bluff impact zone there was to be no grading, excavating or filling.

Conrad asked how far the house was from the bluff impact zone. Ms. Boser stated 30 feet.

Joanne asked how high the deck had originally been. Ms. Boser stated that the deck was maybe four feet from the ground.

Chairman Sviggum asked if the Township would allow them to layer the deck. Mr. Boser stated he did not believe so. He believed they stated 32 square feet for a landing and stairs.

Stanley asked if they put the decks on blocks would it be permissible? Joanne stated that it would be ok, because they did not

excavate. She asked if a cement patio would be ok.

Brad stated that a cement patio would have to be excavated.

Conrad asked if they could put the pads closer to the house. Joanne stated that the house was already 30 feet back from the bluff, they would have to keep the 30 foot set back. Ms. Boser stated that from the edge of the bluff to the house, it does slope by toward the house and over to a side ditch.

Chairman Sviggum asked if the people from the lake could see the house. Ms. Boser stated not very well.

Conrad asked if there were any question about the impact zone starting at that area. Joanne stated that there was no question.

Stanley asked how they disassembled their deck. Mr. Boser stated that they cut it in half.

Stanley asked what their intentions were at this time. Ms. Boser stated that they were looking for someone to tell them what they could do to have some kind of a deck.

Mr. Boser stated that at one time, he had spoken with Township Board members and he was lead to believe that if they took it off the house and dropped it, it would probably be ok. Since that time, it has become a whole different story.

Lisa asked if the house plans were approved as a walkout by the Township. She asked if the Township seen that the house was a30 feet from the bluff and there was still a walkout. Mr. Boser stated yes. Lisa asked if they were notified that the plans had changed and now there needed to be a deck. Mr. Boser stated that that was where it had all started. He stated that they had apologized many time to the Township. If nothing else, a fine would be appropriate and let's try to come to some resolution.

Ms. Boser stated that her biggest downfall was that her builder showed up at the meeting.

Brad stated that they could not change what happened. He suggested lowering the deck and using the pads that were already in place. He believed that taking them out would disturb it more.

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Darwin stated that the drawing indicated that they already had the pads, why couldn't they rebuild at the level they had if sight was not the issue. Lisa stated that it was not how high the deck was it was the set back. She stated that if the deck was at 18 inches they did not need a building permit.

Brad stated that if the deck was moved down, they would not need to change the building permit with the County. It was the ordinance to the set back that needed to be adhered to. This was a zoning issue.

Joanne stated that at the County level, they could put the deck on with the Boards approval.

Lisa stated that there were two different permits, one was the building permit, if the deck was down to 18 inches, they did not need the building permit. But they would still need to meet the set back after that the permit was secondary.

Lisa stated that it was definitely a hardship to the owners, but what would stop the builder from doing this again.

Ms. Boser stated that she was willing to pay a fine, but she also believed that the contractor should have been fined.

Chairman Sviggum asked for public comment. *Conrad Rapp motioned to close the public hearing. Seconded by Brad Anderson. Motion approved 5:0.*

Conrad Rapp motioned to approve the 13 foot variance from the bluff and locate a deck within the bluff impact zone. Seconded by Darwin Fox. Motion carried 5:0.

Stanley asked if there was anything that needed to be stated on the height of the deck. Conrad stated that there was not.

Findings: The variance will not alter the essential character of the locality. The area has very minimal impact on the bluffland..

To review & approve Findings of Fact regarding the variance for the continuation to operate a feedlot which is located within 2000-ft of dwellings in an (A-2) Agricultural zoning district.

Joanne stated that at the January meeting the feedlot was approved for Gary and Nancy Hovel however there were no findings on the request. It had been approved, but there where no findings. According to the County Attorney, Steve Betcher, stated that a finding needed to be recorded.

The motion was made by Chairman Sviggum and was seconded by Darwin Fox.

Joanne asked Chairman Sviggum if it was his intention to accept the findings of the staff report or did he have additional findings.

Chairman Sviggum stated that at the time there was some discussion as to whether it was an existing feedlot.

Darwin stated that it was approved as it existed now and what it was registered and permitted for.

There was discussion about issues that surrounded this item from the January meeting. From this discussion the following findings from Chairman Sviggum was given.

Chairman Sviggum stated that it was approved as it was registered and permit for now, it was a verification that a feedlot had been there and had been used. It was a verification that a feedlot had been established and had been used. Staff recommendation #4. The motion passed 4:1 with Conrad Rapp dissenting.

The findings were based on number four of the staff report: Stanley Klair, Richard Sviggum and Darwin Fox approved. Brad Anderson dissented. Conrad Rapp voted against the motion (and Alan Moorhouse voted against the motion.)

Comprehensive Plan Update – next meeting at the Zumbrota Public Library, Thursday May 29th at 7:00p.m.

Other Business

Meeting Adjourned. Conrad Rapp motioned to adjourn the meeting. Seconded by Darwin Fox. Motion passed 5:0.

Respectfully Submitted,

Carol Greenlee

Administration