

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

Present: Judy Fritzinger Stanley Klair Dennis Monroe Brad Anderson Lisa
Hanni Sarah Pettit

Absent: Mike McKay

K.Gross stated that the agenda should be amended to correct the spelling of "Section" under the Harry Robinson item on the agenda and it should read "Section 33" and not "Section 13."

[\[1\]](#)

Motion by B. Anderson and seconded by J. Fritzinger and carried to approve the September 26, 2005 Board of Adjustment Agenda. Motion carried 5:0.

[\[2\]](#)

Motion by B. Anderson and seconded by J. Fritzinger and carried to approve the August 22, 2005 Board of Adjustment Minutes. Motion carried 5:0.

Staff Updates:

L. Hanni stated that the mileage rate went up to 48.5 cents per mile. The Planning Commission discussed accessory structure sizes and eliminated unlimited size over twenty acres.

Conflict/Disclosure of Interest: none to be discussed.

Jerry Gosman/Frontenac State Park – Pt of SE ¼ of NW ¼ Section 4 T112N R13W Florence Township. The request is a variance to split land twenty nine (29) feet from an existing structure instead of the required one hundred (100) feet setback (variance is for 71 feet).

STAFF REPORT:

Mr. Gosman received a building permit for an accessory structure on June 17, 2004. Mr. Gosman's site plan showed that he was 125' from what he believed to be his closest property line. During the spring of 2005 Frontenac State Park had a surveyor mark their property lines. In surveying their property it was found that 90% of the accessory building was on state property. The state is willing to work with Mr. Gosman in leasing him approximately .73 acres until which time he may purchase the property through a legislative process. Currently, the applicants are seeking a variance to create a property line at 29 feet instead of the required 100 feet in order to minimize the amount of acreage to sell Mr. Gosman to have his accessory building on his own property. Florence Township has approved the request.

Based on the following findings of fact staff recommends approval of a variance to split land twenty nine (29) feet from an existing structure instead of the required one hundred (100) feet setback (variance is for 71 feet).

Findings of Fact:

There are practical difficulties present in this situation. The variance would promote a gentlemanly agreement between property owners and preserve the most amount of state land. The alternative is to move or remove the accessory building, which both parties involved have stated they do not wish to do. The variance is in harmony with the general purpose and intent of the official control in cases where there are particular hardship or practical difficulties.

BOA DISCUSSION:

Jerry Gosman was present along with Harry Roberts, who was representing Frontenac State Park. Mr. Gosman stated that he bought this property three years ago.

D. Monroe clarified that the 71 foot variance would be after they purchase the land.

Mr. Gosman stated he was correct.

C/S. Klair clarified that the State Park is going along with this request also.

Mr. Roberts stated that any state property that goes for sale has to be done by public auction, but there is a provision for this situation: It needs to go through legislation to be done.

C/S. Klair asked if the surveyor had put the marker in the wrong area when they bought the land.

Mr. Gosman said that it wasn't surveyed. When he bought the property he walked the property line with the landowner and he stated the property line was his mailbox. That wasn't even close. Most of the driveway isn't even on his property.

C/S. Klair opened the public hearing.

No public comment was given.

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

[3]

Moved by D. Monroe and seconded by B. Anderson to approve the variance to split land twenty nine (29) feet from an existing structure instead of the required one hundred (100) feet setback (variance is for 71 feet) based on staff recommendation. Motion carried 5:0.

Harry Robinson – N ½ of SE ¼ Sectio 13 T112N R18W Stanton Township. The request is an appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance and a variance to move the replacement site to parcel number 41-033-0200.

STAFF REPORT:

Harry Robinson's daughter, Marlene Wilson, is requesting an appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance and a variance to move the replacement site to parcel number 41-033-0200.

Ms. Wilson stated that there was an old Victorian style house on this property when she was a child. The house became vacant and the barns were moved to her father's property several years ago. Due to vandals and safety concerns the dwelling was eventually removed or destroyed. Staff has provided a 1938 aerial photo of the original farmstead. It is clear that there was an established farmyard at this location at one time. There are also aerial photos available from 1951. The 1951 photos haven't been configured with our mapping software yet, but we have outlined where today's parcel is and the farmyard was still present on the property. The 1951 photos are the last photos staff has available of the farmstead. Staff conducted a site visit of this location and found one barn still standing. Due to the original farmyard being located so far back in an active field and across a major water runoff area, Ms. Wilson would like to move the replacement site approximately 1500 feet to parcel number 41-033-0200. This section is zoned A-1. There are four dwellings in the section currently not including this possible replacement site. Stanton Township has approved the request.

Based on the following findings of fact staff would recommend approval of the appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance. Staff also recommends approval of a variance to move the replacement site to parcel number 41-033-0200.

Findings of Fact:

The standing outbuilding and pictorial evidence of the old farmyard make up the 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 replacement site would use less active agricultural land which is in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

BOA DISCUSSION

K. Gross clarified the handouts.

Marlene Wilson said they want to move the old home place to the other parcel.

S. Pettit asked where the original farmyard was.

L. Hanni points out on the map where the original farmyard was.

S. Pettit asked if D. Monroe went out to the original site.

D. Monroe stated they did not walk back to the site.

S. Pettit asked if there was a field road going back to the location.

K. Gross stated there was not. The staff member that went out walked along the corn field back to the woods.

S. Pettit stated that if there was a field road what would be the hardship because they wouldn't need to cut a new road through the agricultural land.

B. Anderson stated it was an appeal and didn't need a hardship.

C/S. Klair opened the public hearing.

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

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

S. Klair stated that it is obvious that there was a dwelling there. He suggested breaking the motion into two parts.

[4]

Moved by B. Anderson and seconded by J. Fritzinger to approve the appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance. Motion carried 5:0.

D. Monroe stated that the move-to site looked like it would be a lot easier to access, and there are a couple of significant waterways running through the other site.

S. Pettit asked Steve Schmidt what his feeling were on it.

S. Schmidt stated that the OFFSET is 1919', and the proposed location meets that. His opinion is that when we updated the feedlot ordinance we heard comment on non-agricultural use and agricultural land lying side by side and the problems that could cause. He spoke with Mr. Gustafson (a nearby feedlot owner) who stated that there is a field road on the original property.

S. Pettit stated that is one of her concerns. Mr. Gustafson stated that he spreads within 800 feet of the proposed dwelling.

L. Hanni stated that under Article 3, Section 25 of the Zoning Ordinance states "Agricultural production that complied with all Goodhue County Ordinances, shall not be considered by this County as constituting a nuisance." So they would not be able to file a nuisance complaint against the feedlot.

S. Pettit asked if it would affect anybody's manure application setbacks. Did we push them back at all?

S. Schmidt asked Ms. Wilson if the location that the house would be moving to is getting manure right now.

Ms. Wilson said no.

S. Schmidt said he didn't think the dwelling setbacks would apply.

S. Pettit asked if they needed to move the site if there is a field road going back to the original location.

B. Anderson said that if they replaced the house in the same spot they would use more agricultural land and they would have to cross those major waterways. They may be wetlands. The little parcel would take less out of production.

[\[5\]](#)

Moved by B. Anderson and seconded by J. Fritzinger to approve the appeal to move the replacement site to parcel number 41-033-0200. Motion carried 5:0.

C. Francis & Linda Kelly – Lot 4 in NW ¼; Lot 3 in NE ¼; Lots 7, 8 & 10 in NE ¼; Lot 13 in NW ¼; All located in Section 36 T109N R16W, Roscoe Township. The request is a variance to split less than thirty five (35) acres in the A-3 Urban Fringe District.

STAFF REPORT:

Mr. and Mrs. Kelly own a total of sixty five acres in section 36 of Roscoe Township. Their land is split in three ten acre parcels, one five acre parcel and one thirty acre parcel. Their dwelling is currently on the thirty acre parcel. Currently the Kelly's are unable to obtain a building permit on the remaining thirty five acres because it is not contiguous and joined as one tax parcel. The Kelly's would like to re-configure their land so that they have thirty five acres that is contiguous and joined as one tax parcel for a building site. The issue is not with combining the land, but in order to re-split, they need a variance to split their dwelling creating a parcel less than thirty five acres. The Kelly's have sought other solutions to their request. Ultimately they are five acres short of an additional building site. They have approached the city for annexation, but there is a five acre parcel between their land and the city. The township has approved the request. Staff does recognize that this property is unique in the division of the tax parcels. Their house is currently on a thirty acre lot and it would remain on a thirty acre lot. The applicants would not worsen any non-conforming situations.

Based on the following findings of fact staff recommends denial of the variance to split less than thirty five (35) acres in an A-3 Urban Fringe District.

Findings of Fact:

The applicants have sixty five acres. There are not special circumstances or conditions affecting the land, building or use that do not apply generally to other property in the same vicinity. The area is zoned A-3 Urban Fringe District, according to Article 12, Section 1 of the Goodhue County Zoning Ordinance states "The intent of the A-3 District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County in accordance with the Comprehensive Plan by conserving land for farming and other open space land uses for a period of time until urban services become available. It is the intent that urban development be deferred in such areas until an orderly transition from farm to urban uses shall be achieved by either the annexation of areas adjacent to the incorporated limits of existing urban centers or the extension of public or other centralized sewage collection and treatment systems."

BOA DISCUSSION:

Linda Kelly explains the acreage as shown on the map. She stated that last year they came forward looking for a sub-development and were denied. They currently get 5 tax statements. What she would like to do is leave her house on a 30 acre parcel. She has notified all of her neighbors to clarify what she was requesting. This land does qualify for CRP, but it is not in the CRP program right now. It is not good

cropland. The township stated that if they are going to have a house in the country it shouldn't be on good cropland. She doesn't care how the land is split just as long as the 30 acres is on the east side and the 35 acres is on the west side.

C/S. Klair asked if this building site was always there or did they create it?

Ms. Kelly stated that it has been that way since her parents bought it in the 1950's.

S. Pettit asked if the city was contacted.

L. Hanni stated that there is five acres between the Kelly's and the city, and the city was not interested in annexing at this time.

Ms. Kelly stated that the city was willing to, but the gentleman who owns the five acres didn't want to be annexed nor did he wish to sell to the Kelly's. The city is fine with this request. A township official from a different county suggested this re-organization.

C/S. Klair clarified that they are requesting to split their homestead off on 30 acres.

Ms. Kelly stated that is correct they would like to split their home off with a different thirty acres. It currently sits on a thirty acre piece.

D. Monroe stated what they are wishing to do was to split their house off on 30 acres in order to combine the remainder to have a 35 acre buildable site.

Ms. Kelly stated that was correct.

D. Monroe stated that what the Board had to do was to find a hardship.

Ms. Kelly stated a year ago she met with Joanne Wood, and they could have sold a parcel at that point as long as it met 1000' from another dwelling. This was in April, and it needed to be done by June, but Joanne suggested not doing that; but to wait until the law was out of existence and then apply for the variance. She asked Joanne what her hardship was. She said Joanne said not to worry about that. Ms. Kelly stated that she is saving the county a lot of time because there is going to be 2 parcels instead of five, and there is going to be less postage. They want to leave it in the township and the county rather than moving it into the city. It's going to add to your tax base and save some administrative time.

B. Anderson stated that in the past they have allowed them to build on a smaller piece and then tie up the remainder. What is so different in this to say that one of those is buildable but the rest aren't?

D. Monroe stated that this is not contiguous. Those past requests had contiguous acreage and could meet the ordinance.

L. Hanni stated that the parcels are spread out the only way to combine and split them is through this variance. What it comes down to is she doesn't have enough acreage she would need 70 acres to have another building site.

B. Anderson stated that she has 35 acres that doesn't have any building sites on them. What if we said one of those was a building site? If those 35 acres were all together you would say they are buildable.

L. Hanni said she doesn't have 70 acres. She has 65 acres so she has one building site. This is the current configuration of the parcels. Even if she combined them together she would need a variance to split them.

B. Anderson said that her current building site is non-conforming. Could we designate those other 35 acres, even though they are non-contiguous, and say they are a building site? It is different than her request.

S. Pettit stated that when we were doing the comprehensive plan those prior cutouts were a big issue with the cities.

Ms. Kelly stated that Pine Island has told her that is one of the last places that will be annexed because they have to cross a river.

C/S. Klair opened the public hearing.

Dennis Schraeder is 20 acres to the west of the Kelly's. Their concern is that opening the door. Can people now piece property together? Is this creating a precedence? It is not a contiguous situation. What they are concerned with is anybody being able to split 5 acres from their land to preserve the 35 acre building site.

L. Hanni stated in A-3 districts you cannot just split 5 acres without a variance.

Mr. Schraeder said that the gentleman from Pine Island stated that it is not in their 10 year plan. They want to keep their country life.

Ms. Kelly stated that is who you would be looking at selling it to would be someone who enjoys the country life.

Moved by D. Monroe and seconded by J. Fritzinger and carried to approve the closure of the public hearing. Motion carried 5:0.

Ms. Kelly stated that a lot of lots in this area are smaller and you wouldn't be able to buy up lots like Mr. Schraeder suggested.

B. Anderson asked if all these lots in this area are considered non-conforming building sites.

L. Hanni stated that those might have come in before the ordinance.

S. Pettit says that she sympathizes with Ms. Kelly, but you don't need a building site to sell your land.

Ms. Kelly stated that she looked into that and most hunting ground is twenty acres.

L. Hanni clarifies that those would be considered non-conforming.

B. Anderson clarified that if one of those homes were damaged they would be able to rebuild because of Subdivision 2 of Article 28.

L. Hanni stated yes.

C/S. Klair clarified that right now they receive one tax parcel for the thirty acres.

D. Monroe stated that he knows what she is looking at and doesn't see it as ideal farmland but doesn't see a hardship.

Ms. Kelly stated that hindsight is 20/20. But when she goes to a county employee and getting bad advice from someone you should trust.

D. Monroe stated financial benefit is not a hardship.

Ms. Kelly stated that Joanne mentioned that up front but doesn't know why she would have told them to wait.

[\[6\]](#)

Moved by D. Monroe and seconded by J. Fritzinger to deny the variance to split less than thirty five (35) acres in the A-3 Urban Fringe District based on no hardship. Motion carried 5:0.

Dale Baird – Part of SE ¼ Sec 17 T112N R17W Cannon Falls Township. The request is a variance to build an accessory structure ten (10) feet from the west property line instead of the required one hundred (100) feet setback in an A-3 Urban Fringe zoning district (variance is for 90').

STAFF REPORT:

Mr. Baird is requesting a variance to build an accessory structure ten (10) feet from the west property line instead of the required one hundred (100) feet setback in an A-3 Urban Fringe zoning district (variance is for 90'). Mr. Baird owns a 2.02 acre parcel in Cannon Falls Township. His property is surrounded by woods. When the site visit was conducted Mr. Baird had stated that the actual location of the shed had moved further from the property line so instead of a ten foot minimum setback it would be a fifty foot

minimum setback. Mr. Baird's property is heavily wooded and slopes greatly behind the house. The proposed area is the ideal location to place the accessory structure. Based on the following findings of fact staff recommends approval of a variance to build an accessory structure fifty (50) feet from the west property line instead of the required one hundred (100) feet setback in an A-3 Urban Fringe zoning district (variance is for 50').

Findings of Fact:

The topography and nature of the applicant's tax parcel creates the hardship. The request would not adversely affect adjoining property owners and is in harmony with the general purpose and intent of the official control.

BOA DISCUSSION:

Dale Baird was present and stated his request. When they did the site visit he was going to move it tighter to the new slab but his builder suggested leaving it where he originally requested because of runoff.

L. Hanni stated that they received some phone calls from the city who were concerned with a realignment of a road that might affect this.

Mr. Baird said that is a different road and that he owns property near that one also. They may have been confused of the area.

C/S. Klair opened the public hearing.

No public comment was given.

Moved by D. Monroe and seconded by S. Pettit and carried to approve the closure of the public hearing. Motion carried 5:0.

[\[7\]](#)

Moved by B. Anderson and seconded by J. Fritzinger to approve the variance to build an accessory structure ten (10) feet from the west property line instead of the required one hundred (100) feet setback in an A-3 Urban Fringe zoning district (variance is for 90'). Motion carried 5:0.

[\[8\]](#)

Moved by J. Fritzinger and seconded by S. Pettit to adjourn the September 26, 2005 Board of Adjustment meeting at 8:27 p.m. Motion carried 5:0.

Respectfully Submitted,

Kristi R. Gross

MINUTES

- [1] APPROVE the September 26, 2005 Board of Adjustment Agenda as amended. Motion carried 5:0.
- [2] APPROVE the August 24, 2005 Board of Adjustment Minutes. Motion carried 5:0.
- [3] APPROVE the variance to split land twenty nine (29) feet from an existing structure instead of the required one hundred (100) feet setback (variance is for 71 feet) based on staff recommendation. Motion carried 5:0.
- [4] APPROVE the appeal that this location would qualify as a replacement dwelling according to Article 2, Section 2, Subdivision 31 of the Goodhue County Zoning Ordinance. Motion carried 5:0.
- [5] APPROVE the appeal to move the replacement site to parcel number 41-033-0200. Motion carried 5:0.
- [6] DENY the variance to split less than thirty five (35) acres in the A-3 Urban Fringe District based on no hardship. Motion carried 5:0.
- [7] APPROVE the variance to build an accessory structure ten (10) feet from the west property line instead of the required one hundred (100) feet setback in an A-3 Urban Fringe zoning district (variance is for 90'). Motion carried 5:0.
- [8] ADJOURN September 26, 2005 Board of Adjustment meeting at 8:27 p.m. Motion carried 5:0.