

BOARD OF ADJUSTMENT, GOODHUE COUNTY, MN

NOVEMBER 23, 2009

The meeting of the Goodhue County Board of Adjustment was called to order at 6:30 p.m. by Chairman Brad Anderson in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Brad Anderson Judy Fritzingler Stanley Klair Lisa Hanni
Bernie Overby Dennis Monroe Mike McKay

Absent:

¹Motion by S. Klair seconded by B. Overby and carried to approve the November 23, 2009 Board of Adjustment Agenda. Motion carried 6:0.

²Motion by J. Fritzingler seconded by D. Monroe and carried to approve the October 26, 2009 Board of Adjustment regular meeting minutes. Motion carried 6:0.

³Motion by D. Monroe seconded by J. Fritzingler and carried to approve the October 26, 2009 Board of Adjustment special meeting minutes. Motion carried 6:0.

Staff Updates:

L. Hanni stated that at this time we do not have a December meeting.

Conflict/Disclosure of Interest: None.

Paul Ekblad – SE ¼ of SW ¼ and Pt of E ½ of the SW ¼ of Section 17, T112N R13W, Florence Township. The request is for a variance to build an additional dwelling in the SW ¼ of SE ¼ in Section 17, T112N R13W, Florence Township which is zoned A-2 Agricultural District.

L. Hanni presented the staff report, findings of fact and staff recommendation:

Findings of Fact:

The “potential” building area has environmental concerns associated with it that are not directly addressed in our zoning ordinance. The zoning ordinance would allow for a dwelling to be built in the “potential” location; however the existing vegetation that supports the ecological aspects of the location would be disturbed in order to allow for a dwelling. There are mature trees and established understory vegetation that would need to be cleared somewhat to allow for a dwelling. As part of a building permit we would require proper erosion and sediment control measures be taken to avoid erosion impacts into the creek. The “preferred” location is 300+ feet further from the creek than the “potential” location. The “preferred” location contains a natural vegetative buffer to the floodplain and the creek which would minimize the impact a dwelling could have on the creek. The dwelling would be located well above the 1% chance flood elevation which would minimize the risk of loss or harm from flood waters. The request should have no adverse material affects on neighboring properties, nor will it affect the health or safety of persons residing or working in the area adjacent to the property of the applicant. The request will not be materially detrimental to the public welfare nor would it be injurious to property or improvements in the area adjacent to the property of the applicant. Granting the variance will not alter the essential character of the locality. The essential character of the locality is a natural environment, with bluff land, a creek, some agriculture, and residential homes. The addition of a home would not change the character. The home would be allowed by the zoning ordinance in a different location. If it were to be built there it would have more of an impact on the character of the neighborhood. It would be removing existing vegetation and altering the slope of a property to meet grade requirements. Those changes would impact the ecological characteristics of the neighborhood. The hardship is created by the topography of the property. The potential building site is sloped towards the creek and would take a lot of excavation and to provide adequate location for a dwelling. The excavation and the removal of existing vegetation could negatively impact the integrity of Wells Creek. The proposed location is better suited for a dwelling. It

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would have a much smaller environmental impact to build in the “preferred” location based on the natural vegetative buffer that exists between the proposed building area and the creek. The request is to build an additional dwelling in the SW ¼ of the SE ¼, but the applicant would no longer be allowed to build in the SE ¼ of the SW ¼, so the overall density of the section would remain unchanged. The character of the neighborhood should remain unchanged. The essential character of the locality is a natural environment, with bluff land, a creek, some agriculture, and residential homes. The addition of a home would not change the character. The home would be allowed by the zoning ordinance in a different location. If it were to be built there it would have more of an impact on the character of the neighborhood. It would be removing existing vegetation and altering the slope of a property to meet grade requirements. Those changes would impact the ecological characteristics of the neighborhood. The applicant could build in the allowed ¼, ¼. The excavation and removal of existing vegetation could have a greater environmental impact than building in the “preferred” location would have. There is a larger buffer to the creek if the applicant was allowed to build in the “preferred” location. The dwelling would be well above the elevation to be at risk for flooding. The “potential” dwelling location is not located in the floodplain, but would be a higher risk in the instance of a major event due to the proximity to the floodplain. The difficulty occurred by the topography of the property and location of the creek compared to the road. In weighing all of the factors above, it appears that practical difficulties exist and that the interests of the justice would not be served by denying the variance.

Staff Recommendation:

Based on the findings of fact, staff recommends that the Board of Adjustment adopt the staff report into the record, accept the findings of fact, and approve the variance to allow an additional dwelling site in the SW ¼ of the SE ¼ in Section 17, T112N R13W, Florence Township with the condition that the recording of this variance serves as the notice that no dwellings will be allowed in the SE ¼ of the SW ¼ of T112N R13W Florence Township until such time as the zoning or density changes.

Discussion

J. Fritzinger asked if there is any other building site available on the property.

Mr. Ekblad said he thinks there might be on the south side of the property.

K. Gross said that the south side of the creek is floodplain up to the tree line, which you would have to cross the creek and the floodplain to get to, and since our ordinance doesn't allow for a driveway to be greater than 2' below the base flood elevation I don't think you could build there.

B. Overby asked if there is cropland right now.

Mr. Ekblad said beans.

J. Fritzinger said her concern is if we approve the variance to move the building site to the prime ag land she would not like to see it read that in the future they could build if the density to change.

M. McKay said that they we can't do that.

J. Fritzinger said that there is no other spot on this piece of property so why would we...

M. McKay said say the same restrictions are on there 50 years from now they couldn't build.

B. Overby said the way it is currently zoned they can't build there.

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L. Hanni said that this decision gets recorded.

M. McKay said we have had this discussion with what we can stipulate and what we can't.

L. Hanni said that it gets recorded and it goes on the deed.

J. Fritzinger said that if we are saying that this is not a good site to build.

M. McKay said that we are saying the topography is the hardship here.

C/B. Anderson said to justify it to him, the Land Use Plan speaks directly to protecting inland waterways. You have this method to ensure that in these circumstances you can do something to protect.

C/B. Anderson opened the public hearing.

Amy Olson said that her stance is that he has a potential building site, and while it may be closer proximity to the creek it is a suitable location for a home. It may take a little more excavation and some more carefulness to build. We often landscape in environmental areas. It happens all the time, people build on the edge of the bluff and it can be done with very little environmental impact.

B. Overby asked how far off the road is your house.

Ms. Olson said we look into this beautiful field and we started to build a home with the knowledge that this is a not a building site. We are all for keeping the waterways clean. It is not enough of a hardship to turn this agricultural land into a building site.

Ryan Olson said there are a lot of reasons they would not like to see the area developed. For instance headlights. We live in the country for a reason. We like the rural feel of it. The reason for the change of a building site is strictly economical and isn't a reason for a variance.

After no further public comment it was moved by M. McKay and seconded by J. Fritzinger to close public comment. Motion carried 6:0.

B. Overby said that there are building sites across from each site.

M. McKay said explain that the topography is the hardship why is it not a potential building site.

L. Hanni said this is one of those cases where you are trying to balance all of the impacts.

J. Fritzinger asked how further from the creek is your house.

Mr. Ekblad said that he set his house further back from the creek than he had to be.

C/B. Anderson said that he figures it is about 150'.

Mr. Ekblad said that it erodes. How many of you went out there.

S. Klair said that it is a little steep.

C/B. Anderson said that you can do anything but as K. Gross said once you had hard surfaces it is hard to slow it down before it gets to the creek.

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L. Hanni said that you have to balance the environmental issues on this one.

4Motion by J. Fritzinger and seconded by M. McKay to deny the variance to allow an additional dwelling site in the SW ¼ of the SE ¼ in Section 17, T112N R13W, Florence Township based on the request being financial and to preserve the agricultural land.

B. Overby said that if he had to choose one site he would have to choose the one away from the river. He cannot see building in the steep slope and moving all the vegetation. The ecological impact is strong.

D. Monroe said that he seconded the motion because he wanted to know if it was really a buildable site.

C/B. Anderson said that the first item on that meeting was transferring a building site.

J. Fritzinger said that it was an issue for her.

C/B. Anderson said that that one passed and there was not any environmental factors. The standards we are using for this one was not used for that one are miles apart.

M. McKay said that you cannot set precedence.

C/B. Anderson said environmentally this is not a good site.

Motion fails 3:3.

5Motion by B. Overby and seconded by S. Klair to accept the staff report into the record, adopt the findings of fact and approve the variance to allow an additional dwelling site in the SW ¼ of the SE ¼ in Section 17, T112N R13W, Florence Township with the condition that the recording of this variance serves as the notice that no dwellings will be allowed in the SE ¼ of the SW ¼ of T112N R13W Florence Township until such time as the zoning or density changes.

B. Overby said that if this ties.

C/B. Anderson said the motion fails. The request isn't denied, it's up to staff how it is handled.

Motion failed 3:3.

6Motion by J. Fritzinger and seconded by M. McKay to adjourn the October 26, 2009 Board of Adjustment meeting at 7:05 p.m. Motion carried 6:0.

Respectfully Submitted,

Kristi Gross

Secretary

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MINUTES

¹ APPROVE October 26, 2009 Board of Adjustment Agenda. Motion carried 4:0.

² APPROVE the October 26, 2009 Board of Adjustment regular meeting minutes. Motion carried 6:0.

³ APPROVE the October 26, 2009 Board of Adjustment special meeting minutes. Motion carried 6:0

⁴ DENY the variance to allow an additional dwelling site in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 17, T112N R13W, Florence Township with the condition that the recording of this variance serves as the notice that no dwellings will be allowed in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of T112N R13W Florence Township until such time as the zoning or density changes. Motion fails 3:3.

⁵ APPROVE the variance to allow an additional dwelling site in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 17, T112N R13W, Florence Township with the condition that the recording of this variance serves as the notice that no dwellings will be allowed in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of T112N R13W Florence Township until such time as the zoning or density changes. Motion fails 3:3.

⁶ ADJOURN November 23, 2009 Board of Adjustment meeting at 7:01 p.m. Motion carried 6:0.