

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

Present: Darwin Fox Stanley Klair Brad Anderson Dennis Monroe Bill
Warmika
Joanne Wood Howard Stenerson

[1]

Motion by B. Anderson and seconded by B. Warmika and carried to approve the October 25, 2004, Board of Adjustment Agenda. Motion carries 6:0.

[2]

Motion by S. Klair and seconded by D. Monroe and carried to approve the September 27, 2004, Board of Adjustment Minutes as amended. Motion carries 6:0.

B. Anderson noted that he was absent from that meeting, however, he was listed as both being absent and present and Bill Warmika was present at the meeting and not listed.

Conflict/Disclosure of Interest: none to be discussed.

Staff Updates:

Thomas Olson -

Lake Byllesby West Lot 11 Block 3 Sec 9T112N R18W Stanton Twp. The request is for a variance to install an on site septic system 50' from the ordinary high water mark and not the required 100' (variance is for 50') in an R-1 Residential Zoning District.

This issue was tabled from a meeting in September on a request to clarify whether the tank was on his property or county property. Mr. Olsen stated that he found the survey markers and Ms. Wood came out and looked at the site. Ms. Wood pointed out that where the tanks are going is clearly on his property. Mr. Olsen would still need a variance from the property line to put the tank in. Ms. Wood asked Mr. Olson if he had a new site plan. Mr. Olsen stated that he did and presented his plan to Ms. Wood and the board. Ms. Wood reviewed the plan and stated that he will be three feet from the county property line which was a 7' variance and 70' from the high water mark so he would need a 30' variance.

D. Fox asked Ms. Wood if it was clear where the county property line was. Ms. Wood agreed. Ms. Wood stated that on the agenda it states that the variance is for 50' but it would actually be for 30'. Mr. Fox explained to the board that the request was actually for a variance to install an on site septic system 70' from the ordinary high water mark not the required 100' so that would be a 30' variance, and then also it will include a 7' variance from the property line.

S. Klair stated that he visited the site with Ms. Wood and it was very tight corners.

Mr. Olson stated that he spoke with the contractor and they stated that the tanks are 6 by 11 and they could fit them sideways without a problem.

D. Fox opened the public hearing.

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

Moved by B. Anderson seconded by D. Monroe and carried to approve closure of the public hearing. Motion carried 6:0.

[3]

Moved by S. Klair and seconded by H. Stenerson and carried to approve the for Thomas Olson. Motion carries 6:0.

-

-

Scott Johnson –

E ½ of SE ¼ Section 13 T110N R18W Holden Twp. The request is a variance to build an accessory structure less than the 100' setback from property line in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance.

Scott Johnson is requesting a variance to construct an accessory structure on his property located in Section 13 of Holden Township, less than the required 100 ft. property line setback. Mr. Johnson owns a five (5) acre parcel where he currently resides. The dimensions of the parcel are 240 ft. wide by 907 ft. deep. When the dwelling was sited on this property the setbacks at the time were 30 ft. based on the "Parcel of Record". Since that time the property line setbacks are now at 100 ft. and due to the width of the parcel and the location of the dwelling it is difficult to meet the required setbacks. The purpose of the proposed structure is for personal storage.

Upon the site visit it was determined that the proposed structure would not be able to be moved further west on the property due to topography and location of the on-site septic system. Mr. Johnson stated that the proposed structure would be located 70 ft. from the north property line which would require a 30 ft. variance.

Ms. Wood noted that Holden Township approved a variance to the required setback stating that the hardship was created by the change in township and county ordinances. Additionally, since the width of the parcel is 240 ft. and due to topography the 100 ft. setback cannot be met.

Based on the information presented thus far, staff recommended approval of a variance for an accessory structure to be located 70 ft. from the north property line and not the required 100 ft. property line setback (variance is for 30 ft) based on 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. Due to topography, location of the existing dwelling, and dimensions of the parcel the 100 ft. setback from all property lines cannot be met. A hardship exists. The variance 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.

Mr. Johnson stated that what he was looking for was a variance from the 100' setback rule. He lives on property that is 240 wide and that left him 40' to build. The township approved that he could build 30' from the property line. Ms. Hanni asked Mr. Johnson if he was going to be 30' from the property line. Mr. Johnson stated that it probably would not be that close, but they have not set any steaks at this point. Ms. Hanni clarified that the township says that Mr. Johnson has to maintain 30' from the property line and that was what he was requesting.

Ms. Wood stated that she misunderstood Mr. Johnson when she visited the site. She thought he was going to be 70' from the property line, but actually he was asking for 30'

D. Fox asked Mr. Johnson if he was actually asking for a 70' variance. Mr. Johnson agreed.

Ms. Wood stated that Mr. Johnson had a unique piece of property. It is flat where the house and the shed are proposed to be, but drops off quick.

H. Stenerson questioned the drawing included in the board packet and asked about the two buildings overlapping. Mr. Olsen stated that one of the buildings was drawn in by a township member as their suggestion. The second building was the structure he originally wanted to build, however that has changed. He did not have a chance to forward any additional documents. The structure he was looking at building at this time was 26 by 30 which is significantly smaller. It would be north of the house by 10-15 feet. He felt the building would be approximately 50' feet from the line, but was asking to be allowed to build 30' feet from the line.

D. Fox opened the public hearing

Barb St. John introduced herself to the board as the clerk for Holden township. Holden township did hold a hearing on this. In addition, it came back to the township at their last meeting to clarify the change in the structure from what he had originally requested. The township board approved it.

With no further public comment it is moved by S. Klair and seconded by B. Warmika and carried to approve the closure of the public hearing. Motion carried 6:0.

B. Anderson asked which one of the two buildings on the drawing was actually the one he was going to build. Mr. Olsen approached the table and pointed it out on the drawing. Mr. Anderson asked where the secondary drain field was. Mr. Olsen pointed it out on the map.

H. Stenerson asked if this building would block someone from getting to the septic tank. Mr. Olsen stated that they will be keeping it wide enough for a truck to get back there.

S. Klair stated that the property does drop off quite drastically which limits Mr. Johnson on space.

[\[4\]](#)

Moved by H. Stenerson and seconded by B. Anderson and carried to APPROVE the 70' variance to build an accessory structure less than the 100' setback from property line in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance for Scott Johnson.

D. Fox asked that an updated plan be submitted to Land Use Management at the time of the permit. H. Stenerson and B. Anderson agreed to amend the motion to add that condition.

Motion carried by 6:0

Cris Hofschulte –

S ½ of SW ¼ Section 23 T111N R14W Belvidere Twp. The request is a variance to build a storage shed 2,560 sq. ft instead of the allowed 2,400 sq. ft. in an A-1 Agricultural Protection District per Article 3 Section 5 of the Goodhue County Zoning Ordinance. Variance is for 160 feet.

Cris and Tammy Hofschulte are requesting a variance to construct an accessory structure at 2,560 sq. ft. rather than the allowable 2,400 sq. ft. on property located in Section 23 of Belvedere Township. The variance request is for 160 sq. ft. The Hofschulte's recently purchased this property (4 acres) and placed a single family dwelling (mobile home) on it replacing an existing mobile home. In an effort to obtain additional storage space they are proposing to construct a 40' x 64' storage shed for personal storage. The proposed structure will meet the appropriate property line setbacks as required.

Upon a site visit it was determined the surrounding area is tillable and the proposed structure would not adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and the granting of the variance will not alter the essential character of the locality. The Zoning Application Form has been signed by the Belvedere Township Clerk indicating the township has approved the request.

Based on the information presented thus far, staff recommended denial of the proposed structure at 2,560 sq. ft. (160 sq. ft. variance) based on no hardship exists. The plight of the landowner is not due to circumstances unique to the property and is created by the landowner. The variance is not in harmony with the general purpose and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

Mr. Hofschulte stated that his request was basically for an additional 4 feet on the back of a storage shed. Ms. Wood asked Mr. Hofschulte to explain to the board the purpose of the shed. Mr. Hofschulte stated

that the main reason is that they currently do not have a garage. Currently, they have an old mobile home sitting on their property which is storing their items. They would rather not leave things sitting outside. In addition, Lodermeiers' stated that there would be lumber waste if they went with a shorter building. They would have to cut off the end of the building.

D. Monroe asked if this would become the garage too. Mr. Hofschulte agreed.

Ms. Hanni asked if there were two mobile homes on the property. Mr. Hofschulte stated that they are living in one and the other one was pulled next to the field was currently being used for storage. Once this shed is built they would like to get rid of it.

Ms. Wood stated that the Hofschulte met the set backs, it was simply the size of the structure that needed the variance. Mr. Hofschulte stated that another issue was that he had already ordered all of the materials because the lumber company told them that the cost of tin was going to increase by ten percent.

H. Stenerson noted that on the application both the residential and agricultural zone were checked. He asked which one it was. Ms. Wood stated that it was A-1.

B. Anderson asked if this meets the township ordinance. S. Klair stated that they do not have their own ordinance, so they go by the county.

B. Warmika asked why they would go with 40 by 64 instead of 48 by 48. Mr. Hofschulte stated that there was no reason other than he wanted a rectangular building. B. Warmika pointed out that that would eliminate the waste. Mr. Hofschulte stated that the trusses he ordered did not come in that span. They wanted as much storage in the building as possible.

C/D. Fox opened the public hearing.

Clarence Mickelson stated that he as land adjoining this property. He wanted to know how this trailer was allowed to come in to this area without a public hearing. D. Fox felt that was not a question that that board could answer. Ms. Wood stated that it was a parcel of record, meaning that it was a buildable site and no notification was needed. Mr. Mickelson asked how many trailers they would allow out there. Ms. Wood stated that if it is an A-1 they are allowed to put up to four.

Mr. Hofschulte stated that the trailer house was on the property when they purchased it two years ago. They replaced the old trailer with a new one.

D. Fox stated that Mr. Mickelson could talk with the Land Use Management staff at some other time regarding how the trailer got there. Tonight they were only dealing with the issue of the building itself.

With no further public comment it is moved by B. Anderson seconded by D. Monroe and carried to approve closure of the public hearing. Motion carries 6:0.

D. Fox stated that he has built two of these buildings himself and he knows that most companies want to sell you a building that is pre-sized. It often costs more money to shorten a building. The ordinance does not take that in to consideration.

B. Anderson noted that in the year and a half he has been on the board, they have approved a lot of these. This was not a lot different then the others.

[5]

Moved by B. Anderson seconded by S. Klair and carried to approve the variance to build a storage shed 2,560 sq. ft instead of the allowed 2,400 sq. ft. in an A-1 Agricultural Protection District per Article 3 Section 5 of the Goodhue County Zoning Ordinance for Cris Hofschulte. Variance is for 160 feet. Motion carries 6:0.

Ms. Hanni asked B. Anderson if there was a hardship. B. Anderson stated that he does not necessarily see a hardship; however, past practice of the board was to approve this type of structure. He felt that

they needed to change the ordinance.

D. Monroe stated that he just attended a workshop in St. Cloud and they spent time looking at wording. They are starting to use the wording “practical difficulty” or hardship in these situations and he felt that they did hear some practical difficulty in this situation.

Craig and Diana Meyer –

Pt of S ½ of SE ¼ Section 27 T113N R14W Wacouta Twp. The request is a variance to allow an access drive with less than a 20’ long flat grade directly adjacent to the road the driveway accesses in an R-1 Rural Residential District per Article 3 Section 6 of the Goodhue County Zoning Ordinance.

Craig and Diana Meyer are requesting a variance to allow an access drive with less than a 20 ft. long flat grade directly adjacent to the road the driveway accesses located in Section 27 of Wacouta Township. The Meyers built a new single family dwelling on this property as a replacement site. When obtaining the permits from the Wacouta Town Board it was determined that a variance would be required in order for them to build. The Township did ultimately approve the variance and in the process requested that the existing driveway be relocated to a different area on the property. The purpose of moving the driveway was due to site view. By moving the driveway, and due to the location of all other uses on the property, including topography, it has created a problem in terms of the location of the driveway access. The Town Board required the Meyers move the driveway to the present location. By doing so it has created a situation whereby the 20 ft. long flat grade would be difficult to meet. If the driveway did meet the 20 ft. long flat grade, the remaining driveway would be too steep, impractical, and dangerous.

Based on the information presented thus far, staff recommended approval of the variance request; and, further based on the following findings of fact: 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. A hardship exists, the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls.

Mr. Meyer stated that they are requesting a variance for their driveway. He explained that when they first bought the property their driveway was located at the end of the property which had no slope at all. Wacouta township asked them to move the driveway down 50’ for visual purposes and to make it safer. Now it does not have a flat 20’ before you go up an incline. If they did that then it would be about a 45 degree angle. What he was asking for was a variance to eliminate the 20’ of flat before the incline.

Ms. Wood stated that this was a replacement site dating back a number of years. They have a large septic system which takes up a large portion of the road. After the driveway was moved to the suggested location, the entrance was steeper than the variance allowed.

S. Klair stated that where the driveway used to come in it was level but it was on the curve. He stated that he visited the site and felt that the Meyer’s were very limited. If they could have had the septic system on the other side of the road then it would not be an issue. Mr. Meyer agreed.

D. Monroe asked what the incline was. Mr. Meyer stated that he thought it was 15 degree. Ms. Wood stated that the driveway needs to be under 14% grade.

H. Stenerson asked if this was going to be black topped in the future. Mr. Meyer stated that they will eventually blacktop it.

C/D. Fox opened the public hearing.

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

Moved by H. Stenerson seconded by B. Anderson and carried to approve closure of the public comment. Motion carries 6:0.

[6]

Moved by H. Stenerson and seconded by S. Klair and carried to APPROVE the variance to allow an access drive with less than a 20' long flat grade directly adjacent to the road the driveway accesses in an R-1 Rural Residential District per Article 3 Section 6 of the Goodhue County Zoning Ordinance for Craig and Diana Meyer. Motion carries 6:0.

Darrell Boyd –

Pt of SW ½ of SE ¼ Section 6 T112N R13W Florence Twp. The request is a variance to build an additional dwelling over the allowed one per ¼, ¼ in an A-2 Agricultural District per Article 11 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance.

Darrell Boyd is requesting a variance to the density requirement of one dwelling per ¼, ¼, in an A-2 Zoning District, located in Section 6 of Florence Township. Mr. Boyd owns approximately 17.5 acres which includes a single family dwelling. He is proposing to split off and create a 6.5 acre parcel for one building site, however, the existing dwelling is located in the same ¼, ¼, along with an additional dwelling located to the west of Mr. Boyd's property. The Section currently contains 9 dwellings and 12 dwellings are allowed. The proposed 6.5 acres is separated from the existing dwelling by a fence line. The property would meet all applicable requirements of the Goodhue County Zoning Ordinance except for the ¼, ¼, requirement.

When Mr. Boyd met with staff he was informed that the Board of Adjustment has approved variances to the ¼, ¼ in cases when a landowner owns additional land in which to transfer the ¼, ¼, density. In this case Mr. Boyd does not own additional land in which to transfer. The variance request has been reviewed and approved by the Florence Township Board.

Based on the information presented thus far, staff recommended denial of the variance request to allow an additional dwelling in the ¼, ¼, based on the following findings of fact: The plight of the landowner is not due to circumstances unique to the his property and is being created by the landowner; the variance is not in harmony with the general purpose and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. No "hardship" exists. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance.

Mr. Boyd stated that his request was to be able to divide his present property primarily because the property value has gone up so much. He plans on selling it. He used to be the owner of Mount Frontenac Golf Course and used part of this as an office and someplace to stay a few nights a week. People are interested in buying this, but are looking for affordable housing and do not want to pay the property taxes on 18 acres.

Ms. Wood stated that she handed out a letter to the Board today and she wondered if Mr. Boyd wanted to see a copy of the letter. Mr. Boyd read the letter.

D. Fox noted that there were currently nine dwellings in the section. Ms. Wood agreed.

Mr. Boyd stated that if he could sell it in one piece, he would rather do that. Ms. Wood asked if there were two dwellings in the ¼, ¼. Mr. Boyd stated that he was not able to tell from the map.

C/D. Fox opened the public hearing.

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

Moved by S. Klair and seconded by B. Warmika and carried to approve closure of the public hearing. Motion carried 6:0.

H. Stenerson pointed out that he is a member of the planning commission and they have just approved a new comprehensive plan. One of the main issues was the housing density in A-1 and A-2 zones.

[\[7\]](#)

Moved by H. Stenerson and seconded by D. Fox and carried to DENY the variance to build an additional dwelling over the allowed one per ¼, ¼ in an A-2 Agricultural District per Article 11 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance for Darrell Boyd. Motion carries 6:0.

Leslie Lundell –

That pt of the NW ¼ Section 29 T111N R16W Belle Creek Twp. The request is a variance to build an additional dwelling over the allowed 4 per section in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 2 of the Goodhue County Zoning Ordinance.

Les Lundell is requesting a variance to build an additional single family dwelling over the required four (4) dwellings allowed per section in an A-1 Zoning District located in Section 29 of Belle Creek Township. Mr. Lundell owns several acres in Section 29 of Belle Creek Township with his existing farm dwelling. He is proposing to split off a parcel for his daughter to build a dwelling on (25-029-0304). Section 29 is zoned A-1 with currently 9 dwellings located in the section.

Upon the site visit Mr. Lundell stated that the parcel would be for his daughter to build on in the cornfield overlooking the Belle Creek Watershed. He also stated that his daughter would be helping with the field work on the farm. At this time Mr. Lundell is not requesting an appeal to allow a second farm dwelling located outside the farmyard. Steve McNamara has signed the Zoning Application Form indicating that Belle Creek Township has approved the application.

Based on the data presented thus far, staff would recommend denial of the variance to allow an additional dwelling in Section 29 and based on the following findings of fact:

The variance is not in harmony with the general purpose and intent of the official controls in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control and the terms of the variance are not consistent with the Comprehensive Guide Plan. The variance will alter the essential character of the locality and the plight of the landowner is not due to circumstances unique to his property and is created by the landowner.

Mr. Lundell stated that he was looking for a variance boarding the belle creek watershed on tillable land. Ms. Wood stated that this is an A-1 that is already over the limit with nine dwellings. She pointed out that the township approved this based on the fact that they do not have an ordinance.

C/D. Fox opened the public hearing.

Robert Burr stated that he felt bad to have to say anything because they are good neighbors. However; looking out for his own concern, this house would be between their two houses. His concern was that if they approve his, they would have to approve others.

With no further public comment it is moved by H. Stenerson seconded by S. Klair and carried to approve closure of the public hearing. Motion carried 6:0

S. Klair pointed out that this gets back to the density issue. H. Stenerson noted that we are already five over the zoning limit and it did not go along with the new comprehensive guide.

[\[8\]](#)

Moved by S. Klair and seconded by B. Warmika and carried to DENY the variance to build an additional dwelling over the allowed 4 per section in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 2 of the Goodhue County Zoning Ordinance for Leslie Lundell based on staff recommendations. Motion carries 6:0.

Discussion only

Ms. Hanni distributed proposed wording for replacement sites generated from staff discussions and other

county's zoning ordinances. The definition is for discussion as a board. Feedback is important because of the boards experience using the ordinance as a decision making tool.

Replacement Site:

A site previously occupied by a dwelling and evidenced by:

- The 1938 or more recent aerial photography
- A well defined foundation
- An existing uninhabitable dwelling
- A defined dwelling site as evidenced by out buildings, wells, landscaping, or foundations

Meeting Adjourned 8:40 p.m.

Respectfully Submitted,

MINUTES

[1]

APPROVE the October 25, 2004, Board of Adjustment Agenda (Motion carries 6:0)

[2]

APPROVE the September 27, 2004, Board of Adjustment Minutes as amended (Motion carries 6:0)

[3]

APPROVE the variance to install an on site septic system 70' from the ordinary high water mark and not the required 100' (variance is for 30') in an R-1 Residential Zoning District for Thomas Olson. (Motion carries 6:0)

[4]

APPROVE the 70' variance to build an accessory structure less than the 100' setback from property line in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance for Scott Johnson with the condition that an updated plan be submitted to the Land Use Management Department. (Motion carries 6:0)

⁵ APPROVE the variance to build a storage shed 2,560 sq. ft instead of the allowed 2,400 sq. ft. in an A-1 Agricultural Protection District per Article 3 Section 5 of the Goodhue County Zoning Ordinance for Cris Hofschulte. Variance is for 160 feet. (Motion carries 6:0)

⁶ APPROVE the variance to allow an access drive with less than a 20' long flat grade directly adjacent to the road the driveway accesses in an R-1 Rural Residential District per Article 3 Section 6 of the Goodhue County Zoning Ordinance for Craig and Diana Meyer. (Motion carries 6:0)

⁷ DENIED the variance to build an additional dwelling over the allowed one per ¼, ¼ in an A-2 Agricultural District per Article 11 Section 5 Subdivision 3 of the Goodhue County Zoning Ordinance for Darrell Boyd. (Motion carries 6:0)

⁸ DENIED the variance to build an additional dwelling over the allowed 4 per section in an A-1 Agricultural Protection District per Article 10 Section 5 Subdivision 2 of the Goodhue County Zoning Ordinance for Leslie Lundell based on staff recommendations. (Motion carries 6:0)