

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 Bill Warmka Dennis Monroe Howard Stenerson

Joanne Wood

Absent Brad Anderson

C/D. Fox amends the agenda to add a staff update after conflict/disclosure of interest.

[\[1\]](#)

***Motion by S. Klair and seconded by D. Monroe and carried to approve the September 27, 2004, Board of Adjustment Agenda as amended. Motion carries 5:0.***

H. Stenerson says he is not clear on the line regarding the “not qualify as a replacement site” in the August 23, 2004 minutes before the approval of the July minutes.

K. Patton clarified that was a clarification of the July minutes.

[\[2\]](#)

***Motion by H. Stenerson and seconded by S. Klair and carried to approve the August 23, 2004, Board of Adjustment Minutes as amended. Motion carries 5:0.***

Conflict/Disclosure of Interest: none to be discussed.

Staff Updates: L. Hanni says that the Board members will be receiving a new zoning ordinance book next month. She says she does not foresee any more changes this year except January 1<sup>st</sup> they will be receiving the feedlot changes.

October 18<sup>th</sup> we will be going with the Planning Commission and County Board to be extending the moratorium. Then October 19<sup>th</sup> it will be going to the County Board. October 5<sup>th</sup> at the County Board meeting we will be presenting the final draft of the Comprehensive Plan. So we will be giving those new plans when they are complete.

H. Stenerson asks about the wording change for the zoning ordinance changes regarding building size and replacement dwellings. Where are we with those changes?

L. Hanni says that we will be giving those proposals to them to look over. Also we will look at the accessory structure sizes and setbacks. When Kristi first started here she tracked the variances that were passed and denied. But we need to look at those numbers before we decide on anything. We will get those numbers to you by your next meeting.

Minnesota Counties Planning and Zoning Administrators are having a seminar regarding Board of Adjustment. If anyone is interested, make sure you sign up; the County will pay for it, and try to call the office so we can ride share up there.

**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.

Mr. Olson is present and says that he is putting in a new septic system. When the contractor came out he said it has to be placed in undisturbed soil so he is asking for a variance from the ordinary high water mark, otherwise his yard is sand and gravel and would have to excavate such a huge area to place the tanks in it would decimate where the drainfield would go. The contractor is pretty sure he can squeeze it in with a 30’ variance instead of a 50’ variance from the ordinary high water mark.

J. Wood says that when they went out there they were measuring from the middle of the road. They measured 166’ from the center of the road. It puts them 8’ farther from County land than what they thought. But we don’t know

where the County line is.

Mr. Olson says that the tanks would definitely be on his property.

J. Wood says she had a hard time knowing where that County line is. When Jason was out there he had looked at positioning it a little differently to meet the setbacks from the property line. Apparently the DNR requirements are 75' from the ordinary high water mark, but our ordinance states 100' from the ordinary high water mark.

Jason Petersen says that for lakes the County ordinance is more restrictive than the DNR requirements.

L. Hanni says she would strongly recommend for requiring a survey so that we know for sure that no part of this will be on County property. We need some sort of survey to guarantee that is what is happening out there.

Mr. Olson says that neither would be on County property.

L. Hanni says that he doesn't know where that line is and she just wants to know that in no way it would be on County property.

Mr. Olson says he has a map from when the surveyors were out and when they re-did the boundary.

L. Hanni points out that his site plan is showing the tanks on County property.

Mr. Olson says the drainfield is going on the side of the house. He said that his neighbor placed a fence when the surveyors placed the stakes and the fence is still there, so the tanks will definitely be on his property.

H. Stenerson shows Mr. Olson the site map why it looks like the tanks will be off his land.

Mr. Olson says he doesn't recognize that map. But if the tanks are twenty (20) feet from the nearest structure then it is definitely on his property.

J. Wood points out on the map where the tank is going.

L. Hanni says that she would strongly suggest that a survey be done to show that those tanks and drainfield are not on the County property.

Mr. Olson asks if they have maps showing where all the lines are.

L. Hanni says that they have maps but she has no idea where his tanks are going.

Mr. Olson says he is on a limited budget he came in to get a building permit to put on a deck and then he was told he had to put in a new septic system and now he has to look at a surveyor too.

H. Stenerson asks him if his septic system is in working order and he just needed to replace it due to the expansion.

Mr. Olson says that his septic system is just fine now, but in order to put the deck on he had to replace the septic. He says it is just a two bedroom house and he is the only person living there.

J. Wood says that it may be fine now but if he sells it then it could be three or four people living there.

Mr. Olson says he is trying to keep the costs down and what does a surveyor cost \$500? He asks if the County has a map showing those lines.

L. Hanni says that somewhere outside it needs to be marked for him where those lines are to ensure that those tanks are on his property.

Mr. Olson says they didn't put in pins they just put up wooden stakes.

L. Hanni says that they put pins in. What she is asking is for him to have someone mark those lines to show that those tanks without a doubt will be on his property.

Mr. Olson asks when they want to come and look at the pins.

L. Hanni says that you have to show to this Board that the tanks will be on your property.

H. Stenerson asks what his lot dimensions are.

Mr. Olson says that it is 100' by 130'.

J. Wood shows a copy of the plat with the lot dimensions with the 50' easement of the road.

C/D. Fox opened the public hearing.

Anna Indermill asks if there are stakes out there now.

Mr. Olson says the stakes are gone.

Ms. Indermill asks if there is nothing out there to mark that line then.

L. Hanni says there are pins.

Ms. Indermill asks if it is reasonable for the Board to go and look for those pins.

J. Wood says that they did a site visit and measured back from the road to find his line but they did not look for the pins.

Ms. Indermill says so the pins do exist.

D. Monroe says they didn't see those pins.

J. Wood says that Johnson & Scofield did the plat out there

Mr. Olson says the surveyor would know where they put the pins. He would know where the County line would be.

J. Wood says that from the center of the road and then the right of way is 29' and then his property is 130' so it would be 159' from the center of the road. She says he can call Johnson & Scofield to ask them where the pins are.

Mr. Olson says that he is trying to save himself a couple of bucks. He has a tape measurer too he can stick a stake in and if they want to take a look at it they can do that.

L. Hanni says that in the ground is a metal pin. You need to ensure this Board that it is not on the County property.

Mr. Olson says that they can bring their own tape measure.

L. Hanni says the County is not going to survey it for you. As the applicant you have to provide the Board with this information.

H. Stenerson asks Mr. Petersen to come up and answer some questions. He asks why these septics need to be replaced or brought up to current standards with building permits.

Jason Petersen says that whenever you apply for any type of permit in shoreland area you must prove that you have a conforming septic system. Conforming in shoreland means that there is a 3' separation from groundwater and that you do not have a cesspool or drywell design.

H. Stenerson says that the problem may not be that it is not functional but it does not meet the distance from groundwater.

Mr. Petersen says functioning is really not defined under state rules. A septic is either failing, which in the case drywell or those that don't meet separation are considered. Then there is an imminent threat category. Otherwise they are considered compliant.

H. Stenerson asks if this is failing, or is it an imminent threat.

Mr. Petersen says that some people who know that their system is failing don't spend the money to do a compliance inspection. He's assuming that this is a drywell two tank design system. So it is just failing, but not one of the other two categories.

H. Stenerson says that tonight we have two of these issues on Lakes Byllesby and there is a lot of algae out there as well. He has heard that the problems of algae come from nutrients from sewage or agricultural runoff. He asks if anyone in Public Health has considered moving the pipes and having a more central group site type of thing that they do in cluster housing projects.

Mr. Petersen says that they have discussed it many times over the years but also over the years there have been many replaced on site. The Cannon River which is feeding Byllesby is the category above impaired.

It is what is feeding Byllesby and also become a part of the picture. Almost all those lots along Byllesby are going to need a variance if you aren't going to simply say holding tanks but those are generally not recommended and nobody really likes them. The DNR says that the lake is still under the designation recreational development. He asked the DNR about changing the category to general development which is the lowest category, but the DNR doesn't like to change those classifications. It would have lowered some of those setbacks but there is a whole lot impacting that reservoir rather than the people living on one side or the other.

H. Stenerson says that the proposal is for a 70' setback and the DNR has a 75' setback, Can we go beyond those requirements?

J. Wood says that for whatever reason we had adopted different setbacks than what the DNR had originally set out in some of these ordinances.

Mr. Petersen says that DNR has 50', 75' and 100'. The County has 75', 100' and 200'.

H. Stenerson says his question is whether or not they can go beyond DNR requirements.

Mr. Petersen asks J. Wood if they responded and if they got a notice.

J. Wood says that they didn't respond and they did get a notice.

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

D. Monroe says the gentleman wishes to upgrade the septic and would vote for the variance with the condition that it is not on County property.

H. Stenerson asks L. Hanni if it would be more appropriate to table this for one more meeting, and actually have staff go out and know where that line is.

L. Hanni asks if this is a variance to the OHWM what about the property line. If we don't know where that property line is; how do we know he is far enough away from it? I would have to have him come back again and have to pay for him to get another variance.

H. Stenerson asks if he would sign a waiver for the sixty day rule.

J. Wood says the application was made on August 23 and the next meeting is October 25<sup>th</sup>.

Mr. Olson says that winter is coming. Can these guys install it?

H. Stenerson explains the sixty day rule and why he would need to sign the waiver.

Mr. Olson says sure come on out.

[\[3\]](#)

*Moved by H. Stenerson and seconded by S. Klair and carried to table the 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.*

C/D. Fox clarifies that this is tabled so that when staff goes out again they can see where that property line is and can see if there is a need for a variance to the property line as well.

*Motion carries 5:0.*

**LouAnn Groth -**

Lake Byllesby West Lot 14 Block 3 Sec 9 T112N R18W Stanton Twp. The request is for a variance to install an on site septic system 13' from a structure and not the required 20' setback (variance is for 7'), 3' from the property line and not the required 10' (variance is for 7') and 50' from the ordinary high water mark and not the required 100' (variance is for 50') in an R-1 Residential Zoning District.

Ms. Groth is present and states that she is not building but is just looking to upgrade her septic system. She had both neighbors sign a waiver which should be in their packets.

J. Wood points out on the map where the system will be placed.

Ms. Groth says she knows where her property lines are and her system is well on her property.

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 D. Monroe and carried to approve the closure of the public hearing. Motion carried 5:0.*

[\[4\]](#)

***Moved by D. Monroe and seconded by S. Klair and carried to approve the variance to install an on site septic system 13' from a structure and not the required 20' setback (variance is for 7'), 3' from the property line and not the required 10' (variance is for 7') and 50' from the ordinary high water mark and not the required 100' (variance is for 50') in an R-1 Residential Zoning District.***

H. Stenerson asks if it is just failing or an imminent health threat.

Mr. Petersen says it is failing.

***Motion carried by 4:1. Stenerson dissenting.***

Findings of Fact:

A hardship exists. The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; 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. The applicant has limited area in which to install an on-site septic system due to topography, lot size, and existing structures located on the parcel.

**John Pernic –**

Pt of NE ¼ of NE ¼ of SW ¼ Sec 25 T112N R18W Stanton Township. The request is a variance to build a shed 17' from the right of way instead of the required 60' from Oxford Mill Road (variance is for 43') and a variance to place a septic system drainfield a minimum of 35' from the ordinary high water mark instead of the required 75' (variance is for 40') in an R-1 Residential Zoning District.

Mr. Pernic says that he applied for a machine shed and found that he needed to bring his septic system up to code. He says he has no alternative. He lives on the side of a hill and the land drops off fairly fast. He can't move closer to the river because of the drop-off and the flood plain. He is asking for a variance for a 35' minimum from the Little Cannon River.

Mr. Gysberg says they are looking at a 20' variance to try to reverse this without tearing up his basement floor and basically destroying his whole lot. It would take a tremendous amount of work to move it to the north without having to worry about it being flooded.

D. Monroe asks if the new tanks would be higher.

Mr. Gysberg says from a design standpoint and to use common sense he would rather have the tanks up out of the flood water area. There are limerock issues. If we go to the north side then the drainfield would be in the floodplain. This is the best of both worlds to make this fit. He says they are building a mound system to make this fit even better.

H. Stenerson says that if you are building a mound you are on top of the ground.

Mr. Gysberg says that there are rocks and trees. Mr. Gysberg approaches the Board and points out on his map where the mound would go and where there are trees and how the topography lays out on this property.

H. Stenerson says on his map it shows 55' from the river, but on the maps in the packet it was 35' from the water. How far is it going to be?

Mr. Gysberg says that from the edge of the river to the edge of the drainfield it is 55'.

H. Stenerson says there is a big difference.

L. Hanni says that they are asking for a variance of 45' from the ordinary high water mark. What about the road right of way?

J. Wood says that they are asking for a ten (10) foot variance from the right of way. She says that the reason she recommended tabling this request so that Mr. Petersen would get a chance to talk to Mr. Gysberg. She asks if they were able to talk and were comfortable with this now.

Mr. Petersen says that we discussed this issue and got a chance to go out there. There is a way to meet the ordinance without getting the variance, but then it comes down to the issue of what do you have to do with the property to make it comply. With the pipes coming out from the south side he would have to re-route the pipes through the basement or dig up the property to place pipes. He says that 35' isn't a very good number to work with but 55' is a little better than originally thought. How much are you going to make them go through in order to meet the ordinance?

Mr. Gysberg says we would have to take out a lot of very large trees and he doesn't want to do that.

H. Stenerson asks Mr. Petersen if it isn't appropriate to make them go closer to the road.

Mr. Petersen says that even mounds need a certain amount of soil to function and if you push it any closer to the road you run into quite a bit of rocks.

L. Hanni asks why you have to be so close to the right of way for the shed.

Mr. Pernic says that it doesn't make any sense to be farther from the road because of the topography of the land. There is a huge drop-off.

J. Wood asks about moving the shed closer to the house would that give him any more setback from the road.

Mr. Pernic says that it is the same width all along there and it wouldn't give him any more space.

C/D. Fox opened the public hearing.

Robert Benson is from Stanton Township and he says that they approved all the variances and would prefer that they don't take down too many trees. It is a rustic road and the Township would prefer it to stay that way.

*With no further comments it is moved by H. Stenerson seconded by S. Klair and carried to approve closure of the public hearing. Motion carries 5:0.*

H. Stenerson asks J. Wood with the information that Jason has given tonight if she is comfortable with a decision being made or if they are looking for any more.

J. Wood says that they have all the information. She asks Mr. Petersen if all the questions have been answered tonight. She says that being 55' from the water instead of the 35' is a big difference too.

D. Monroe says that he is in favor of this. It doesn't make sense to put these tanks in a floodplain.

C/D. Fox says that it makes sense to keep it out of the floodplain. He too agrees he has been through there many times and feels that it would not make sense to take down trees to force them to meet the ordinance. They have done a good job finding the best option for the property.

H. Stenerson says that he too agrees. He is hesitant when there is another location, but this is a unique situation where the other location doesn't make sense when there is ledge rock and such.

**[5]**

***Moved by H. Stenerson seconded by D. Monroe and carried to approve the variance to build a shed 17' from the right of way instead of the required 60' from Oxford Mill Road (variance is for 43') and a variance to place a septic system drainfield a minimum of 55' from the ordinary high water mark instead of the required 75' (variance is for 20') in an R-1 Residential Zoning District. Motion carries 5:0.***

Findings of Fact:

A hardship exists. The plight of the landowner is due to circumstances unique to the property and was not created by the landowner. 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.

**John & Anna Indermill –**

Poplar Ridge Lot 8 Block 3 Section 6 T112N R13W Florence Twp. The request is for a variance to build an accessory structure 1,488 square feet over the allotted 1,200 square feet on lots greater than 1 acre in size in an R-1 Residential Zoning District for a total building size of 2,688 square feet.

Mr. and Mrs. Indermill are present.

Mr. Indermill states that they are interested in building a large storage building on his lot for a workshop and storage of recreational vehicles and what not. He is on 12.7 acres of land.

J. Wood says that the Board has approved these based on compatibility of the area. This is a 12 acre lot which is larger than others. This ordinance is based on lots of 1-2 acres. She shows the Board on the map where this would be located. She says she did recommend denial so that the Board could consider whether or not there is a hardship. The Board has passed these variances before.

Mr. Indermill says that two lots over there is a shed similar to the one they are proposing and across the neighborhood there is one twice the size as the one they are proposing.

D. Monroe asks if that property is part of these lots.

Mrs. Indermill states that it looks like it would be but it technically isn't.

J. Wood asks what type of material the shed would be made of.

Mr. Indermill says it will be a stick build with windows and shutters complimentary to the house. The roof will match the porch roof. They will participate in the organization where you purchase and plant a lot of trees.

C/D. Fox opened the public hearing.

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

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

L. Hanni says that they should be pretty clear as to what the hardship is if they vote in favor of this.

H. Stenerson says that he is having a hard time determining the hardship and the structure is almost twice the size that the ordinance allows. This is a new development. These rules were already set and the land owners should have known that at the time they bought that land.

Mr. Indermill says that two buildings would be a way to go, this is clearing off to the side, but two buildings would definitely be in the public eye.

Mrs. Indermill says to add two buildings would take away from the landscape of the land.

L. Hanni says the question right now is that they are requesting one building over the allotted size and not two buildings. Two buildings are not the issue they are addressing.

Mrs. Indermill says that the person who is objecting to this is not in the view. But the only person who would be able to see it has no objections.

H. Stenerson asks what the hardship was in the other instance.

J. Wood says according to Section 3 Subd 1b it would not adversely affect the layout of the land nor would it be injurious to the adjacent landowners. She says that one is probably more visible than what the Indermills are proposing

Mr. Indermill says that the other one is much more visible. The layout of the building will be the same

they are expanding in length.

**[6]**

***Moved by H. Stenerson seconded by D. Monroe and carried to approve the variance to build an accessory structure 1,488 square feet over the allotted 1,200 square feet on lots greater than 1 acre in size in an R-1 Residential Zoning District for a total building size of 2,688 square feet based on Section 3 Subdivision B with a contingency that the appearance of the structure compliments the appearance of the home. Motion carries 3:1:1 Klair dissenting, Fox undecided.***

**Joe Skolte –**

SE ¼ of NE ¼ Section 21 T113N R16W Welch Twp. The request is a variance to build an accessory structure 35' from the property line instead of the required 100' setback in an A-2 Agricultural Zoning District (variance is for 65').

Mr. Skolte is present and states that the way his property is laid because of the topography and there is a pipeline running through it. They are limited on where they can place the buildings. He is trying to get a variance for the rear property line.

J. Wood states that they couldn't get out to the property. She was wondering where the pipeline goes through the property and asks if there is a variance to the pipe line.

Mr. Skolte says that the further they could be from the pipeline the better they would be in the long run.

J. Wood asks if this was a replacement site.

C/D. Fox says it was. It came before this Board about a year ago to move the replacement site because due to soil types the County said the only place he could build is right on the pipeline but approved him to move the house.

H. Stenerson asks if none of this has been built yet. Has the movement of the house as a replacement site already been approved? We aren't going to run into any problems on this one.

J. Wood asks if he bought the whole 40.

Mr. Skolte says it would be used as storage for machinery for the farm.

J. Wood says those hills and valleys of Welch create problems for the people out there.

C/D. Fox opened the public hearing.

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

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

H. Stenerson asks if we move this closer to the property line would it infringe on someone else's building property.

C/D. Fox says that it goes up quite a ways but it has probably at least a six foot lift and then it is all farmland.

Mr. Skolt says that the other property is all landlocked from any Township road.

C/D. Fox says that he couldn't even drive on the other people's property because it is so steep.

**[7]**

***Moved by S. Klair and seconded by D. Monroe and carried to approve the variance to build an accessory structure 35' from the property line instead of the required 100' setback in an A-2 Agricultural Zoning District (variance is for 65'). Motion carries 5:0.***

Findings of Fact:

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

If there is no other location for the shed due to topography and the pipeline, a hardship

exists. The variance is in harmony with the general purpose and intent of the official control incases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

**Kenneth & Verleen Buck –**

Pt of SE ¼ Sec 2 T109N R16W Roscoe Twp. The request is a variance to split and build on less than 35 acres in an A-3 Urban Fringe District.

Kenneth and Brian Buck are present. Brian says that he is looking to split and build on less land that what is allowed for mortgage purposes.

J. Wood says that they went through a change of zone and part of this is for financing for mortgage purposes and the rest of this is being tilled. She wanted to make the point that they came in for a rezoning from A-2 to A-3 in April and now they want to split the land.

Brian Buck says that the remainder of the land would not be built on and his parents can keep their income from renting the land. There would not be enough for another house. They are only looking to build one house.

J. Wood says that they are proposing to split 9.09 acres. The city of Zumbrota does not object because they cannot foresee themselves getting out that way for annexation in the near future to annex.

Kenneth Buck says they went to the Roscoe Township Board and they approved it.

L. Hanni says that when the Board makes their decision that they know that a hardship cannot be purely financial. When going through the Comp Plan it has been strongly urged not to grant variances in A3 and keeping those regulations the way they are, and Zumbrota being one of the greatest advocates of it.

H. Stenerson says that when it came to the Planning Commission five or six months ago that it is a shock that the city of Zumbrota did not object to this as they so commonly do.

L. Hanni says that in the last version of the Comp Plan that is going to the County Board they do not want to mess with the A3 areas and preserving that area for the cities. It was a discussion about the Urban Fringe Zones and protecting those areas, with Zumbrota being one of the strongest advocates for that.

H. Stenerson says that the general gist of this is that this number does not get any smaller. It makes it very difficult to manipulate the roads through. He thinks the Planning Commission said they don't object because the City of Zumbrota doesn't see themselves annexing this portion in the future.

Brian Buck says that they are about 1.8 miles out from the city and that may be why they are not very concerned.

C/D. Fox opened the public hearing.

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

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

H. Stenerson says when this came to the Planning Commission a few months ago he doesn't feel that it was a unanimous decision. He cannot support this based on financial hardship alone.

S. Klair asks why this wasn't an A3 to begin with.

L. Hanni points out that it was adjacent to A3. They are ¾ of a mile from the city boundary.

H. Stenerson says that in regards to the Planning Commission meeting that they agreed to change the zoning because they knew that it was only 35 acres so that it could not be split again for another site.

J. Wood says what they have done in the past is that one controls that whole piece. Generally if you approve it you approve it based that the one dwelling would represent the 35 acres.

**[8]**

***Moved by H. Stenerson and seconded by S. Klair and carried to deny the variance to split and build on less than 35 acres in an A-3 Urban Fringe District based on staff recommendation. Motion carries 5:0.***

Findings of Fact:

No hardship exists. The applicant currently owns 35 acres or more and would be allowed a building site without obtaining a variance. The property in question can be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is not due to circumstances unique to the property and is created by the landowner, economic considerations alone shall not constitute a hardship if a reasonable use of the property exists under the terms of this Ordinance. The purpose of creating a parcel less than 35 acres is for economic considerations. The variance will not change the character of the locality.

**Cathy, Allen & John Peterson –**

SE ¼ of SE ¼ Section 16 T112N R16W Vasa Twp. The request is an appeal that this site would not qualify as a replacement dwelling under Article 2 Section 4 Subd 31 of the Goodhue County Zoning Ordinance and to move replacement site to a more desirable location in an A-2 Agricultural Zoning District.

Mr. Peterson is present and is requesting a variance to move a replacement site to a more desirable spot.

J. Wood says that when they did the site visit there was nothing visible to the eye. There was an approach off Hwy 19, but other than that there wasn't anything showing there was a dwelling there at one time. There is an 1877 map showing a dwelling, but apparently the house burnt down. She has had a couple of people say that there was a house there at one time. It was also noted at the site in Section 22 an existing barn was present indicating that a replacement site would currently exist at this site. Mr. Peterson stated that he wishes to preserve the site where the existing barn is located for an additional building site, consequently, if the appeal is approved he would be allowed two (2) building sites on the same parcel located in Section 22. The property located in Section 22 contains woodland where the building site would be located and the property in Section 16 contains prime tillable land. Mr. Peterson has stated that he wishes to preserve the tillable land and move the site to a location where the CER is lower.

C/D. Fox asks if there is anything left of the old house.

Mr. Peterson says there is an impression from the cistern.

C/D. Fox says that he remembers when the old house burnt down. He remembers there was a house and grainery. His grandparent lived next door.

L. Hanni says that one decision is whether or not this is a replacement site; the other is whether or not the replacement site can be moved.

H. Stenerson clarifies that there is a building site in section 22 already.

L. Hanni points to the map. So that ¼, ¼ would have 3 houses on it if this were moved.

Mr. Peterson says that if he could give some more background; they originally had a buyer for this 3 corner parcel. The buyer obtained a building permit but then the deal fell apart. Then it had passed the June deadline and now he is just trying to sell it as a building site.

J. Wood says in the meantime Section 22 has filled. In the meantime somebody else came in to apply for a variance and he got it.

L. Hanni says she is confused, was the building site he had in Section 22 based on the Parcel of Record?

J. Wood says no. It is a replacement site, which would control that piece so Parcel of Record would not matter there. She then tells Mr. Peterson that he has a replacement site in Section 22. He has one right now. How many acres is that in 22?

Mr. Peterson says a little over 40.

L. Hanni says the survey says 36.2.

J. Wood asks Mr. Peterson if it was back in 1998.

Mr. Peterson brings forth a more recent survey that was done.

L. Hanni clarifies that he wants to move the replacement site to the 4.2 acres on the survey he is presenting.

J. Wood says in other words he is trying to get two building site in Section 22. One is there the other he would like to move from 16.

H. Stenerson asks if they are doing anything with the one that is already in Section 22.

J. Wood says no. First you have to determine if this is a replacement site, secondly if he can move the replacement site.

C/D. Fox opened the public hearing.

Wallace Gardner Jr. says he remembers the house being there in the 1950's and he would bring Peonies to town. He was a bit of a hermit.

Mr. Peterson says he thinks he lived there into the late 60's. He bought the property in 1969 and he was in a rest home and the deal was that Mr. Peterson wasn't supposed to disturb anything there as long as he was alive. He must have died in the early 70's.

*With no further comments it is moved by S. Klair seconded by D. Monroe and carried to approve closure of the public hearing. Motion carries 5:0.*

[\[9\]](#)

***Moved by S. Klair seconded by D. Fox and carried to approve an appeal that this site would qualify as a replacement dwelling under Article 2 Section 4 Subd 31 of the Goodhue County Zoning Ordinance 4:1 Stenerson dissenting.***

Findings of Fact:

There are special circumstances or conditions affecting the land referred to in the appeal that do not apply generally to other property in the same vicinity. Allowing the appeal would not alter the essential character of the locality.

[\[10\]](#)

***Moved by S. Klair seconded by D. Monroe and to deny the move replacement site to a more desirable location in an A-2 Agricultural Zoning District.***

J. Wood says that he was trying to preserve tillable land.

H. Stenerson asks how many dwellings would end up in Section 22.

J. Wood says there would be 16.

Mr. Peterson points it out to the Board where the replacement site is.

H. Stenerson says that it isn't in the middle of the field; it's closer to the road.

Mr. Peterson says yes.

H. Stenerson calls the question.

***Motion carries 5:0.***

Findings of Fact:

There are no special circumstances or conditions affecting the land referred to in the appeal that do not apply generally to other property in the same vicinity. Allowing the appeal would alter the essential character of the locality since the parcel in Section 16 currently contains a replacement site and if the Board approved the relocation of the replacement site the parcel would contain two dwellings rather than the allowable one.

**Richard Zeidler & Marcia Ford –**

Pt of S ½ of NE ¼ Section 4 T111N R17W Leon Twp. The request is a variance to the allotted 12 dwellings per section in an A-2 Agricultural Zoning District.

Mr. Zeidler and Ms. Ford are present and state that they are requesting a variance to the number of dwellings in an A2 area. This property was a Parcel of Record and didn't know that it expired. He didn't realize that he was going to lose it.

Ms. Ford says that they have 120 acres. The plan is to build and move and starting their new life together and are in the process of that they discovered to their horror that the building site expired in June.

H. Stenerson asks if the house they live in now would be torn down.

Mr. Zeidler says no, they would sell it.

Ms. Ford says that it was built in 1978 and is suitable to live in.

L. Hanni says that it has been in all of the papers, real estate agents have also run ads in addition to that. During the Comprehensive Plan it has been discussed not wanting to go above the number of dwellings allowed in the sections.

Mr. Zeidler says that when he bought this originally in 2001 and he talked to Brad Anderson about it. But the problem with this property is they can't put up another building where they live. He says he wasn't worried about it because he knew all the time. He says he didn't get the paper. Even if he did he doesn't read those legal notices.

L. Hanni says they were also run in articles and ads. We did fulfill our duties for public notice on that.

Ms. Ford says that they do not subscribe to any papers.

Mr. Zeidler says they had no idea it could just terminate like that. He understands the legal obligation was filled on the County's part, but they didn't know.

C/D. Fox opened the public hearing.

Derek Benson says that he doesn't have any kind of problem with the proposal.

Tim Coss is the adjoining property owner. He bought his property on the south side of the road and Richard bought the land on the north side of the road. At that time Richard said he bought it with the intention of putting a house on the hillside 2 ½ to 3 years ago.

Ms Ford reads a letter from a neighbor in support of the variance request as follows:

9-27-04

To the Board of Adjustment,  
Joanne A Wood:

We have received notice regarding the application submitted by Richard Zeidler and Marcia Ford for a variance on their property located at Pt of S ½ of NE ¼ Section 4 T111N R17W Leon Twp. As we are unable to attend the public hearing we would like to respond by letter in support of the variance. Our hope is to see them move forward with their plan to build a home on their property without delay. Please accept our letter of approval in hopes that our good neighbors can use their land in a way that best meets their need.

Sincerely,  
Scott and Peggy Shultz  
8002 Skunk Hollow Trl

J. Wood says that they too received a letter from a neighbor in support today that didn't get here tonight. She talked to Brad Anderson last week and he said it does meet the Township ordinance.

Richard Rock says that he lives at the intersection of Skunk Hollow Ave. and Skunk Hollow Trl. It is a really hard decision, but he is not in favor of this being built. There are 12 dwellings allowed in a section and currently there are 15. It is not anything personal but when you keep adding and adding buildings of any kind you tend to lose the more rural character that many of us move out to the country to enjoy. Being in a valley it is more concentrated. Being on the east end of the valley he gets the smoke from the west property. He doesn't live adjoining the property but is not in the favor of this variance.

Mr. Zeidler says that one thing about the section they live in (and he thinks there are 13 in there now) as you drive along the road all the houses are built up off the road where you can't see them from the road.

*With no further public comment it was motioned by H. Stenerson seconded by S. Klair and carried to approve closure of the public comment. Motion carries 5:0.*

J. Wood says she saw two houses in the area of the homestead and asks if they are on one parcel.

Mr. Zeidler says that they are on two parcels.

L. Hanni says that the Board will have to determine what the hardship is in this case.

J. Wood says that this is the first request for people who have missed the Parcel of Record. She doesn't know how many more of these that could claim the same type of thing.

Mr. Zeidler says he bought his homestead in 1988 and the additional property after that.

Ms. Ford says that they started the process before the June 4<sup>th</sup> deadline, but were taking their time with it because they didn't know they would lose their site.

H. Stenerson says that from the Planning Commission perspective it is the public opinion and every situation is different but the general comments is pretty strong to try to restrict the number of houses in a section. But he can feel for these people because it is easy to miss a notice. But we don't want to set

precedence. Where do we draw the line?

Ms. Ford says that Mr. Kutz has the preliminary plans drawn up. They drew up before the deadline. He has the plans with him. We really didn't know.

L. Hanni says that it is harsh to say, but you don't have a building permit until you have a building permit. There are certain things that had to be met before you could come in and apply.

Ms. Ford says they thought they had to have something to show before they could get a permit.

L. Hanni says yes they need that information but you don't have a permit until you have a permit.

H. Stenerson says that he is still struggling. The deadline is there and there were several years involved.

D. Monroe asks how they found out that it expired.

Ms. Ford says that they were talking to a friend in town and were sharing with them that they had found a builder and had started the process. He said they better check because he thought their site had expired. It was literally right after, like the 4<sup>th</sup> of July.

S. Klair asks if the house they live in now could be torn down and that replacement site be moved.

J. Wood says it's not in any position to be replaced. It's in good shape.

D. Monroe says that it is a nice house.

Mr. Zeidler says that he didn't realize part of this other process. He had talked to the Township a couple of years ago and they told him he needed to have 40 acres and 100' of road frontage and 1000' from the nearest dwelling. He was under the impression, and didn't realize the County's position in this. He thought he had no problem because he has 120 acres. He didn't realize that the County had a limit to the number. He didn't know, especially after talking to the Township when they said if you have over 40 acres you automatically get a permit.

J. Wood asks if when they purchased the property and they knew it was a building site under the Parcel of Record.

Mr. Zeidler says yes.

J. Wood asks if they talked to the County at that time.

Mr. Zeidler says no.

J. Wood asks if they were basing it all on the Township.

Mr. Zeidler says yes.

H. Stenerson asks if not knowing is a hardship.

L. Hanni says that he is on shaky grounds. That is why there is State Statutes. It went out to all the Townships. Not knowing that a law is there is no excuse for going against it.

C/D. Fox says when the new ordinance was adopted in 1993 it specifically said that they were given 10 years from the time of the ordinance adoption and then they extended it one more year.

D. Monroe says that an extension is for everyone and right now we are dealing with re-extending it for one person.

L. Hanni says that they really have to be particular to what is the hardship.

H. Stenerson says he doesn't see any grounds of a hardship and based on the fact that he is a representative from the Planning Commission and can't support Section 3 Subd. B that it isn't hurting anybody because going through the Comp Plan process, we have learned that it does have a negative effect.

[\[11\]](#)

***Moved by H. Stenerson and seconded by S. Klair and carried to deny the variance to the allotted 12 dwellings per section in an A-2 Agricultural Zoning District. Motion carries 5:0.***

Finding of fact:

The plight of the landowner is not due to circumstances unique to the property. No hardship exists. 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.

Meeting Adjourned 10:00 p.m.

Respectfully Submitted,

Kristi Patton  
Zoning Technician/Recording Secretary

# MINUTES

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[1]

APPROVE the September 27, 2004, Board of Adjustment Agenda (Motion carries 5:0)

[2]

APPROVE the August 23, 2004, Board of Adjustment Minutes as amended (Motion carries 5:0)

[3]

TABLE the 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. (Motion carries 5:0)

[4]

APPROVE the variance to install an on site septic system 13' from a structure and not the required 20' setback (variance is for 7'), 3' from the property line and not the required 10' (variance is for 7') and 50' from the ordinary high water mark and not the required 100' (variance is for 50') in an R-1 Residential Zoning District. (Motion carries 5:0.)

[5]

APPROVE the variance to build a shed 17' from the right of way instead of the required 60' from Oxford Mill Road (variance is for 43') and a variance to place a septic system drainfield a minimum of 35' from the ordinary high water mark instead of the required 75' (variance is for 40') in a R-1 Residential Zoning District. (Motion carries 5:0.)

[6]

APPROVE the variance to build an accessory structure 1,488 square feet over the allotted 1,200 square feet on lots greater than 1 acre in size in an R-1 Residential Zoning District for a total building size of 2,688 square feet. (Motion carries 5:0.)

[7]

APPROVE the variance to build an accessory structure 35' from the property line instead of the required 100' setback in an A-2 Agricultural Zoning District (variance is for 65'). (Motion carries 5:0)

[8]

DENY the variance to split and build on less than 35 acres in an A-3 Urban Fringe District. (Motion carries 5:0.)

[9]

APPROVE an appeal that this site would qualify as a replacement dwelling under Article 2 Section 4 Subd 31 of the Goodhue County Zoning Ordinance and to move replacement site to a more desirable location in an A-2 Agricultural Zoning District. (Motion carries 5:0.)

[10]

DENY an appeal to move a replacement site from Section 16 to Section 22 of Vasa Township.

[11]

DENY the variance to the allotted 12 dwellings per section in an A-2 Agricultural Zoning District for Richard Zeidler and Marcia Ford. (Motion carries 5:0.)