

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: March 4, 2016

MINUTES – (Informational)

The Wright County Board of Adjustment met on March 4, 2016 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Bob Schermann, called the meeting to order at 8:30 a.m. with all Board members present. Sean Riley, Zoning Administrator, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

1. **AgSTAR FINANCIAL SERVICES, FLCA** – Cont. from 1/8/16

LOCATION: Part of the E ½ of NW 1/4, Section 1, Township 121, Range 26, Wright County, Minnesota. (Silver Creek - Twp.) Tax #216-000-012103

Request an appeal of zoning administrator's decision of Section 502.2 & 604.6(4) of the Wright County Zoning Ordinance determining a 70 +/- parcel is not conforming and will not have an entitlement because of an unapproved five-acre division previously made from the parcel.

Present: Applicant not present

- A. Applicant asked for a continuation. Riley indicated a waiver had already been signed on 15.99 agreeing to continue and allow the legal process to play out.
- B. Jones moved to continue the petition to April 1, 2016 at the applicant's request. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **MARK W. MADDOX** – New Item

LOCATION: 7005 Pilger Avenue NW – Lot C, Shady Nook Replat and Addition, Section 28, Township 121, Range 28, Wright County, Minnesota. (Lake Sylvia – Southside Twp.) Twp. 217-068-000030

Requests a variance of Section 405. 502.2, 605.5(3) & 612 of the Wright County Zoning Ordinance to allow changes to the variances granted on 12-4-15. The expansion and remodeling project proposed to include a 3.5 ft. balcony off the upper level, to be 65 ft. from the ordinary high-water mark of lake. Also, expansion of the 8' x 8' rear porch that was 15' from the side property line is proposed to be 7' x 16', 10' from the side property line.

Present: Mark Maddox

- A. Riley reviewed the Board review and action in December of 2015. The plans submitted for the building permit show the porch is larger than the 8' x 8' granted; and was moved closer to the side property line than the original plan reviewed. Riley noted the change may have come about because of the relocation of a door. In addition a cantilever deck off the second level is proposed and that is within the lake setback.
- B. Maddox explained he did not want to go to full architectural plans before the hearing. The deck is off a loft area. The existing house needs a lot of work, decks are rotting off and exists now at 9.6' from the side line. The approved addition is 9.6' and the wider porch would be 10.6' from the same line. At the request of the Township, they cut the deck back to 2' so that it will not extend beyond the overhang. He noted the existing 14' deck on the west side of the house extending toward the lake.
- C. Jones asked how the changes affect the 25% impervious coverage. Maddox stated they have calculated those numbers to fit and provided them with the building permit application. Riley explained the requirement of the previous action would still apply. Staff would make sure through the building permit. Quiggle asked if the applicant did not have to redesign to bring the coverage down. Riley, agreed some modifications were required. Jones added the minimum setback is 15' from the line. Maddox further explained the structure is 10.6' to the closest corner of the modified porch which is still further away than the house is at 9.6'. Riley concurred the new porch moves closer than the original, but not closer than the house or approved addition. Riley asked about the dimensions of the porch. Maddox clarified the new dimensions of the porch should be 6' x 14' (*Staff calculated 7' x 16' based on plan*). He has hired Backyard Reflections to help with the reduction of impervious cover.
- D. Aarestad asked where the well is. Maddox said the sewer was put in prior to their purchase. The well is in the basement in the southwest corner. Riley informed him when it is replaced it will have to be moved outside the house. Aarestad - felt the modification seems reasonable.
- E. Quiggle asked about the proposed landscape plan, boulder and retaining walls. Several boulder retaining walls and were counted at 50% impervious and questioned where that is

in the Ordinance. Riley stated a policy allows for 50% for impervious pavers not driven or parked on but is unaware of ever stating this applies to boulders, he has not reviewed the landscaping plan. Planner, Rhineberger, has met with the landscaper to work out those details. Understand they are removing impervious and doing something new landscaping on the exposed slope. Quiggle she asked the difference between a block and a boulder in how it is calculated. She was disappointed the landscaper was not present to answer questions she has on impermeable surface. She also had questions on the elevation of the bottom of the reservoir, which is within the shoreland impact zone. She noted there has to be a 3' separation from the bottom and the highest known water table. With the permeable paver system this close to the lake, she would like confirmation this is met. Riley stated his best estimate it meets the separation requirement because it is not real low or flat. Quiggle also had questions on materials being used in the excavated system. Maddox explained that is why he hired a local company that works within the County and this Board. He trusts they would do things right. Quiggle would like assurance that it will be done right. She asked if Maddox has a maintenance plan. Maddox stated they had not discussed one. Quiggle informed the applicant this is critical and should be vacuumed out twice a year. Schermann asked if they should not have the contractor appear before the Board to answer the questions.

- F. Mol – stated he would agree the balcony should be shortened. Maddox explained this is an aesthetic feature. Mol noted frustration this is back before them and asking for additional variances. The applicant should have informed his architect what the Board granted variances for. Maddox did not disagree, but stated the architect had come up with a long list of suggestions.
- G. Schermann had to agree with Mol on revisiting the variances that were just granted three months ago. The architect should have stayed within the parameters granted. A number of questions were raised and asked if the applicant is willing to have a representative of Backyard Reflections appear at the next meeting to address Quiggle's questions. Maddox stated the impervious calculations used the larger porch to make sure it is under 25%.
- H. Riley asked if the applicant returns with his landscaper, is the Board comfortable with the architectural feature off the loft and proposed porch? Mol stated he would like something formal from the Town Board. Riley reported the Township asked that the deck be brought back 2' and addressed the porch expansion.
- I. Maddox asked if the Board could approve anything today. Board members concurred they would like clarification from his landscaper on the design and impervious coverage.
- J. Mol moved to continue the hearing to April 1, 2016 to allow the applicant's contractor to appear before the Board to answer questions on the design and impervious surface coverage. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **BRADLEY & KIMBERLY SAWATZKE** – New Item

LOCATION: 6423 Osborn Avenue NW – Tract described as part of Gov't Lot 4, and part of the W ½ of SE ¼, all in Section 34, Township 121, Range 28, Wright County, Minnesota. (E. Lake Sylvia – Southside Twp.) Tax Parcel # 217-000-343102

Requests a variance of Section 502.2 & 605.5 & 612 of the Wright County Zoning to allow construction of a new 2' x 17' cantilever addition lakeside to be 74.7 ft. from the ordinary high-water mark of lake (OHW); replace and expand existing deck to be 65.9 ft. from the OHW; a new 10' x 18.33' one-story addition over a basement that will be 76 ft. from the OHW, and a new 8' x 10' entry porch on the roadside that will be 48.5 ft. from the center of a platted road.

Present: Kim Sawatzke & her contractor, Andy Johnson with Lecy Bros. Remodeling

- A. Riley reviewed the proposed changes that include a covered entry-way, addition to one side of the house, replacement and expansion of a deck that includes a screen area below. Also a cantilever expansion of the house. Pictures of the existing structure were viewed to show where these changes would be made. Building plans submitted were displayed to show the final design and floor plan. A portion extends a little closer to the lake because of how the shoreline cuts into the lot. The rest meets the setback.
- B. Quiggle asked what the lot coverage will be. Johnson stated when completed, it will be 13.7% and he presented a survey. Using the building plans he noted where a deck will be removed and new one built. A concrete slab shown on the survey was pointed to. Originally, the home owner wanted a screen porch on top of the deck, however, the proposal is to put a phathom screened area below the deck. He explained how screens on a track can be pulled down on this patio. Quiggle asked if this would be counted toward building coverage. Riley indicated it would. Aarestad questioned if the floor of the deck would be like a roof. Johnson noted it will be built like a deck floor with a rubber roof. A plan was provided to show this. Quiggle noted the deck is already non-conforming and she would not want to make it less conforming. Otherwise, she has no issues with the other plans.
- C. Mol – noted the addition extends to the side, and the roadside entry is not a problem. He agreed the deck is the biggest concern.
- D. Jones – noted there have been other remodels in the area that are within the standards, so the deck encroachment is the concern. Schermann agreed with the Board's comments.
- E. Johnson – explained the reason for the size is that the remodel of the kitchen moves that out. He noted part of the project includes removal of a deck off the master bedroom. Noted they are taking off that deck and sliding it over to keep a similar square footage.
- F. Quiggle stated her concern is not the square footage, but further encroachment on the 75' lake setback required. Johnson did not think they were getting closer and reviewed his measurements. Sawatzke agreed there is not an expansion of the deck toward the lake. Riley understood this is closer than variances granted in 1996 for a deck. The deck goes

beyond that. The new deck is larger with an enclosure under it. Johnson pointed to the survey that was just completed that shows the setback. He felt it would only be a few inches if it does move closer to the lake.

- G. Riley reviewed the Board action that allowed a deck less than the setback. The Board has to consider whether it can be enlarged with a porch under it whether it is at 65.9' or 63.5'.
- H. Mol stated he does not want to see it move closer and could go along with a 65.9' setback. Riley noted the lake meanders so not sure if the proposed size would meet it. Aarestad asked if the stairs are subject to the setback. Riley stated that is a permitted encroachment.
- I. Schermann asked if the Board should address the deck/porch with a stipulation it can go no closer than the existing. Aarestad would agree subject to a condition that the porch cannot be enclosed in the future. Sawatzke indicated she would agree to that condition.
- J. Quiggle moved to grant a variance of Section 502.2 & 605.5 & 612 of the Wright County Zoning to allow construction of a new 2' x 17' cantilever addition lakeside to be 74.7 ft. from the ordinary high-water mark of lake (OHW); replace and expand existing deck, 65.9 ft. at the closest point, from the OHW (no closer than existing structure); a new 10' x 18.33' one-story addition over a basement that will be 76 ft. from the OHW, and a new 8' x 10' entry porch on the roadside that will be 48.5 ft. from the center of a platted road. Condition: The deck will have a temporary screen porch below, as explained by the contractor; and cannot be converted into a permanent screen or four-season porch. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **ANNA M. RYAN**– New Item

LOCATION: 9243 Osborn Avenue NW – Part of N ½ of SW ¼, Section 15, Township 121, Range 28, Wright County, Minnesota. (Southside Twp.) Tax #217-000-153101

Requests a variance of Section 302, 604.5 & 604.6(4) to allow an existing 68-acre property to be split into two parcels: Proposed is a 7-acre lot with the existing homestead and 61 acres to have the remaining building “entitlement”. Neither parcel would have 300 feet wide on a public road.

Present: Anna Ryan and Paul Otto, Otto Associates

- A. Riley reviewed the property outline on a map and pointed out where the dedicated town road ends. There is an easement that has been drawn in. The existing house and buildings were noted and division proposed. The remainder parcel has an access strip and easement to the town road and will have the remaining “entitlement”. Kryzer asked if this would become a cartway? The easement is recorded and accepted by the County.
- B. Otto further explained where Osborne Road ends. In addition, an area of 100’ x 100’ was deeded to the Township in 1971 that gives access to two parcels (applicant’s and another owner). The seven acre lot proposed would have a 33’ wide access to the public road. In response to Kryzer regarding the cartway and who has concerns about easements, Otto indicated his client would agree to do that with the Township. He could not say whether the other two owners would. Jones asked about the property lines and ownership. Riley reviewed the existing parcels and dividing line and the property they drive across to get to Osborne. Either way, a variance is needed because there is not the minimum frontage needed. He noted the access for this house has been used since built. The proposed division lines were shown in yellow and whether there is an easement or cartway they need the variance to create a subdivision with less than 300’ wide on Osborne for each parcel. If the old easement were not of record, a division would not be possible. Kryzer is right in that it would be nice to clean it up with a cartway, if that is possible. The Board would still have to act on the division. Schermann felt that is up to the parties.
- C. Mol – they can force the cartway by not allowing the division without that. Otto asked if it is fair to force that on this owner and noted it may not work out if the neighbor or Township do not want to expand it. Mol explained the benefits of getting this dedicated to the Township and noted it does not have to be developed to standards until someday the area develops. He pointed out some commercial to the north and the State Highway. This would be in place and not a big burden on this applicant, for when development does happen. This was done with a road in Clearwater Township that was heard by this Board. Jones, Quiggle and Aarestad indicated they would agree with Mol that this would make things easier in the future. Schermann asked Kryzer what language could be included. Kryzer suggested they approve the variance on the condition that a cartway be established before any divisions or developments occur on these parcels in the future. The cartway would not have to be built to specs until developed. Riley asked they define develop, the Clearwater property had 4-5 parcels on that road. This parcel has one entitlement left, if that does not take place does development mean it will be required when the house is built. Kryzer referred to a 2010

Supreme Court ruling on an easement case that decided if you cannot prove continual use over 40 years the easement no longer exists. That is the concern. Otto –suggested his client could refile an easement deed for that area and get the two neighbors on board. The Township could put new documentation in place, but it might be easier to work with the neighbors. Kryzer – felt they should make it a cartway. Otto was concerned the Town Board might not want to. Even if they just farm the land they need to get through that area, Riley noted. If that access is not adequate than the division should not be allowed. Otto – the access has been maintained, they come beyond the dedicated road and turn around and because they have been using it. He agrees that is a good idea, but the technicalities are a concern. He would like clear direction to go to the Town Board with if the Board requires that. Krzyer – suggested a continuation to allow discussions between the property owners and the Town Board. Mol – is willing to continue this, but would like to see a cartway, so it gets on the books as the Township's. With the understanding they would not have to develop it to the Township standards or maintain it. Sounds like they are already turning around in that area. Discussion on the area of the property that the township is using. Riley – stated on the Township road map it ends before that. The question before the Board is whether they can cross that land to use an entitlement. Kryzer explained there is a shorter time period for township use, which is five years. Generally, the townships do not want to force it. Otto – clarified that they are not building any roads, but question is how do they get the 100' x 100' area recognized in today's Courts and give both parcels a minimum of 33' wide to a public road. He would ask for a continued easement, not a cartway.

- D. Quiggle questioned access to the 7 acres. They are coming off that easement and going up to the existing driveway, to use that driveway would they need an easement. Otto stated yes, if they want to continue using the existing driveway and keep that location; or could relocate the driveway.
- E. Mol moved to continue the hearing to April 1, 2016 for clarification on the easement for the properties. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **ARLENE LITFIN & GERALD LITFIN**– New Item

LOCATION: 6255 Farmington Ave. SE – N ½ of S ½ of NW 1/4, Section 1, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax Parcel # 208-200-012401 & -012300 Owners: Glen E. Litfin Family Trust & Gerald & Gayle Litfin
Requests a variance of Section 502.2 & 604. of the Wright County Zoning Ordinance to allow approximately 17 acres from existing 28 acre restricted parcel to be added to Gerald’s 10-acre entitlement division (tax #208-200-012300) that is on a 66 ft. access strip, resulting in a 27 acre entitlement division on an access strip. Remaining 11 acres to be restricted and have over 300 ft. of road frontage.

Present: Arlene & Gerald Litfin

- A. Riley displayed maps to show the location of the properties currently zoned AG and in the Land Use Plan for A/R. The property had a 10-acre division, allowed administratively with a 66’ wide access strip restricting the balance of the farmland. A lot of record was pointed out that did not take away an “entitlement”. The property owner has inquired about how they can get another residential lot. The limited frontage on the balance only allows for one A/R zoned parcel. The proposal is to divide off part of the restricted parcel in back and combine it with the 10 acre residential lot. In the future, a rezoning request would be made for the remaining 11 acres that is restricted land. Usually, this would be of concern because they don’t like to leave a 11-acre restricted parcel.
- B. Quiggle questioned why they do not rezone the entire parcel. Riley explained it would only be the remaining restricted parcel that would go to A/R.
- C. Aarestad indicated he would agree, but Quiggle has a good point. Quiggle added that the approach seems backwards. They are creating a much larger lot as an “entitlement” parcel then is allowed. If the property is rezoned, no variance is needed. Riley explained the reason it is coming before them is there is not enough road frontage to meet the 300’ in width on the public road for two parcels if the entire thing is rezoned AR. It could be done but it would result in a large AR parcel that cannot be further divided. Mol – asked if a Planned Unit Development would be an option. Riley explained in this case a PUD is probably difficul.. A road would not be built for two or three lots and it would be dead-end with no ability to connect up in the future.
- D. Discussion on the large parcel and requirement to combine.
- E. Aarestad moved to grant a variance of Section 502.2 & 604. of the Wright County Zoning Ordinance to allow approximately 17 acres from existing 28 acre restricted parcel to be added to Gerald’s 10-acre entitlement division (tax #208-200-012300) that is on a 66 ft. access strip, resulting in a 27 acre entitlement division on an access strip. An Administrative Order combining parcels will have to be recorded before end of 2016, if the County Auditor cannot combine said parcels for tax purposes. Remaining 11 acres to be restricted and have over 300 ft. of road frontage. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

6. **CHRISTENA M. DICKENS** – New Item

LOCATION: 5758 - 70TH Street SW – S ½ of SW ¼, Section 6, Township 118, Range 26, Wright County, Minnesota. (Woodland Twp.) Tax #220-000-063300 Property owner: Marilyn Atkinson

Requests a variance of Section 502.2 & 604.6 of the Wright County Zoning Ordinance to allow a 15-acre (approx.) division to include the existing homestead.

Present: Mike Young, representing the applicant

- A. Riley presented the air photo to show the 80-acre farm. Proposal is to split off the “entitlement” on a lot that exceeds the ten acre maximum. The division does not include more than 2.5 acres of tillable, but includes a large wooded area, shed and long driveway.
- B. Hearing no public comment on the request, Board consensus was favorable.
- C. Mol moved to approve a variance for a 15-acre (approx.) division to include the existing homestead. Quiggle seconded the motion.

VOTE: CARRIED UNANIMOUSLY

7. **BARBARA I. ABEL**– New Item

LOCATION: SW ¼ of SW ¼, except West 605 feet of South 360 feet thereof; & SE ¼ of SW ¼, Section 11, Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-113400 & -113300

Requests a variance of Section 502.2 & 604. Of the Wright County Zoning Ordinance to allow the east 40 acres of the farm to be split into two 20-acre (approx.) parcels each with an “entitlement”. Remaining acreage to be restricted land.

Present: Barb, Randy & Nick Abel

- A. Riley displayed the property made up of two tax parcels, one a “lot of record” the other is a 40 acre parcel. Applicant wants to use the two “entitlements” on the 40 acre tract, much of the land is wetlands and wooded. The balance is tillable land. This is before the Board because they want to split the acreage into two 20-acre parcels.
- B. Mol – considering the type of land this is, most is not farmed and the amount of wetland, this makes sense.
- C. Schermann noted it keeps the farmland together. Jones, Aarestad and Quiggle agree.
- D. Quiggle moved to grant a variance of Section 502.2 & 604. Of the Wright County Zoning Ordinance to allow the east 40 acres of the farm to be split into two 20-acre (approx.) parcels each with an “entitlement”, according to Exhibit “A”, held on file. Remaining acreage to be restricted land. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

8. **DALE M. ZWACK**– New Item

LOCATION: 9767 Aetna Avenue NE – Tract described as part of the E ½ of SW ¼, Section 18, Township 121, Range 25, Wright County, Minnesota. (Monticello Twp.) Tax Parcel # 213-100-183403 & -183400 Property owners: Zwack & Olson

Requests a lot line adjustment as regulated in Section 502.2 & 604. of the Wright County Zoning to attach a 33 ft. wide strip from tax #213-100-183400 (owned by Olson and zoned AG General Agricultural) to applicant's 10.95 acre lot (tax #213-100-183403 that is zoned A/R Agricultural-Residential).

Present: Dale Zwack

- A. Riley reviewed the Olson agricultural property and the Zwack residential lot (zoned A/R). The property was part of previous Board of Adjustment reviews, most recently when they heard the property to the north. The land was attached to property Olson owns to the north and the new request is to add the access strip to the Zwack lot. The Ag land will have access to the road to the north.
- B. Zwack indicated his application that states 33' is not correct. The strip is 66' wide. Riley explained originally the access was approved at 33' and Olson expanded that to 66'.
- C. Jones would agree as long as the access is no longer needed for the adjoining property. Riley reviewed the Administrative division and previous Board action that allowed a separate lot line adjustment.
- D. Aarestad moved to grant a lot line adjustment as regulated in Section 502.2 & 604. of the Wright County Zoning to attach a 66 ft. wide strip from tax #213-100-183400 (owned by Olson and zoned AG General Agricultural) to applicant's 10.95 acre lot (tax #213-100-183403 that is zoned A/R Agricultural-Residential), according to Exhibit "A", held on file. Condition: An Administrative Order will be required before the end of 2016, if the County Auditor cannot combine the parcel for tax purposes. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

MINUTES

On a motion by Jones, seconded by Aarestad, all voted to approve the January 8, 2016 minutes as printed.

Meeting adjourned at 10:10 a.m.

Respectfully submitted,

Sean Riley
Planning & Zoning Administrator

Cc: Board of Adjustment
County Board
Kryzer
Twp. Clerk
Applicant/property owner