

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: April 1, 2016

MINUTES – (Informational)

The Wright County Board of Adjustment met April 1, 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 the following Board members present: Schermann, John Jones, Charlotte Quiggle and Paul Aarestad. Absent was Dan Mol. Barry Rhineberger, Planner, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

MINUTES: Board held over for review and action in May.

1. **AgSTAR FINANCIAL SERVICES, FLCA** – Cont. from 3/4/16

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. Rhineberger informed the Board the applicant asked for continuation to May. Schermann asked if the policy was not to continue more than twice. Rhineberger stated the policy is three times at the discretion of the Board. In this case, they are waiting on a Court ruling that has a direct relationship to the property request. Kryzer – noted the policy adopted is related to the time frame requirements for a decision. The Court has 90 days to take the matter under advisement and should be completed by May 6.
- B. Quiggle stated she had inquired with Staff about an expanded request to the Board if the Court does not hand down the decision to remedy the matter. Kryzer noted that would be up to Ag Star to amend the request. Rhineberger stated an amended application, new notices and a \$50 fee would be required.
- C. Jones moved to continue the hearing to May 6, 2016 at the applicant's request. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **MARK W. MADDOX** – Cont. from 3/4/16

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 Maddow and Trisha Maddox; Lars Raisanen, Backyard Reflections

- A. Rhineberger noted the matter was continued from the March meeting. A size change and balcony that was not included in the Board action last December is proposed. The building expansion was discussed in detail at the last meeting; however the Board asked for further information on the impervious coverage. Since then he has been talking with the contactor and Raisanen about reducing impervious coverage. The changes from the original plan have brought impervious coverage down to 24.9% and includes the recalculation of boulder walls. The original plan included a 50% credit for the boulder walls which the County does not give. He explained the County does not have enough experience to give credit for boulder walls at this time. The 50% is only given to pavers. There was a question by Quiggle about an under-drain, however, because of the sandy soils there will not be one here, even though the original plans show one.
- B. Raisanen provided the Board with additional information on the pavers and offered to answer their questions.
- C. Quiggle asked the amount of water this is supposed to treat and how deep is the basin. Raisanen stated it supposed to take 100% of a one inch rain fall. The basin is 12" deep. Quiggle questioned the elevation of the pavers close to the shoreline and boathouse in relation to the water table. Raisanen felt there is 3' from the highest known water table. Rhineberger – stated the highest known water level is 1052.13; based on the plan the pavers would be 2' above that elevation. Quiggle indicated based on that, they should be at an elevation no lower than 1056. These regulations are from the Pollution Control Agency Stormwater manual that also require the elevation for the bottom of the reservoir. Rhineberger – the steps are at an elevation of 2' above OHM.
- D. Raisanen stated the timber retaining wall is being replaced so there is little material needed in the shoreland impact zone. Quiggle noted the boulders are included in the excavating materials. Rhineberger stated that if it is only replacement, they would not consider it excavation. This is already dug out and disturbed, noting the deck and timbers there.

- E. Quiggle questioned the location of the septic drainfield, she found the tanks on the plan. Rhineberger stated the drainfield area is between the tanks and the road. This was installed last year. Quiggle asked for confirmation that there would be no basement under the proposed addition. Maddox stated that is correct. Quiggle stated anything in the public waters would require a DNR permit. Raisanen stated there is some rip-rap and the boulder walls will be higher and behind out of the ordinary high-water. Quiggle asked if there is a maintenance agreement for the permeable pavers. Raisanen stated there is. Quiggle noted if these are not maintained they would not work properly. She would agree as long as the owners understand they have to vacuum these out once or twice a year and keep a maintenance agreement in place as a condition to the end of time. The importance of the maintenance was discussed further. Because of compaction, Rhineberger, noted that is why those areas driven on or parked over are not considered permeable.
- F. Board members felt their concerns were answered and would agree. Schermann asked if there is a way to follow up on the condition Quiggle suggests. Kryzer stated they can, however, the difficulty is monitoring or enforcement. Rhineberger – felt Staff could set up a system to bring it up like what is done for sewers for these agreements. Quiggle suggested a contract is entered into and the owner/contractor provides proof to the County. Raisanen – asked if they are expecting a formal maintenance contract and has it been done before. Rhineberger stated no, there is only a couple he has dealt with. Quiggle - Crow Wing County requires a contract. Raisanen – noted they may give a 100% credit. Quiggle regardless of the credit, they need assurance it is working. Rhineberger – felt they may look at these differently once there is more history to these.
- G. Quiggle moved to grant 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 2 ft. balcony off the upper level, towards the lake, according to Exhibit “A” held on file, to be approximately 66 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 to be 6’ x 16’, 10’ from the side property line. (according to Exhibit “A”) Landscaping to be done according to plan on file labeled Exhibit “B”, the design and installation of the permeable pavers must be installed according to the plan on file and as outlined in the criteria in the MN Storm-water manual; and, there will be a permanent maintenance contract on this to ensure the system continues to work forever. The contract to be coordinated with Staff. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **ANNA M. RYAN** – Cont. from 3/4/16

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: Applicant not present

- A. Rhineberger informed the Board the surveyor and applicant were unable to make the meeting. A request was submitted to be heard in May and they signed a waiver.
- B. Jones moved to continue the hearing to May 6, 2016 at the applicant’s request. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **SCOTT S. RINNE** – New Item

LOCATION: 4043 Braddock Avenue NE – Part of SE ¼ of SE ¼, Section 7, Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-074401

Requests a variance of Section 604.5(2) of the Wright County Zoning Ordinance to replace two existing non-conforming accessory structures (currently 72 ft. from centerline of a County Road) with a new 28' x 36' accessory structure (larger than combined size of existing) to be 65' from the centerline of a County Road.

Present: Scott Rinne

- A. Rhineberger – the 3-acre lot in Buffalo Township was reviewed. This road was a town road until the new County Jail was built. At that time, about 600-800' past the applicant's property was reclassified a county road. The buildings were compliant at the time they were constructed and are now non-conforming structures. Two older storage buildings are to be removed and replaced with a 28' x 36' detached garage. This building will be closer than what exists, but wants to use the 65' setback that would have been required if this were still a town road. Town Board response was favorable.
- B. Rinne – presented pictures to show the building will match the rural area. This building will be within the maximum size building allowed. He did a photo-shop illustration to give the Board an idea of what it will look like. The road reclassification would require a 130' setback rather than the previous 65' setback. The house and buildings that exist are not meeting the setback. He asked if the Board allows the garage this close, if that variance would allow an attached garage or new house at that setback. Schermann and Kryzer informed him a new request and variance would be required.
- C. Rinne pointed out the neighbors are further back so he felt this is unique and they won't have all the neighbors in for variances. His other options would require bringing a lot of material and a driveway to the back of the yard.
- D. Air photo was displayed and Aarestad asked about what looks like a porch. Rinne pointed out the structure that is the house built in 1919 and a porch added to the front. The porch is 65' from road. Aarestad has no objection and noted if there are improvements to the road they will have to deal with the house also. Quiggle asked if the County Highway responded. Rhineberger indicated no response. Quiggle asked if there is an increase in traffic now that it is a county road. Rinne stated just up to the jail and impound lot.
- E. Aarestad moved to grant a variance of Section 604.5(2) of the Wright County Zoning Ordinance to replace two existing non-conforming accessory structures (currently 72 ft. from centerline of a County Road) with a new 28' x 36' accessory structure to be 65' from the centerline of a County Road. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **ROBERT W. MANTHEY** – New Item

LOCATION: 3060 58TH St. NW - Lots 4 & 5, Sandy Beach Addition, according to plat of record, Section 4, Township 120, Range 26, Wright County, Minnesota. (Maple Lake –Maple Lake Twp.) Tax #210-027-000040

Requests a variance of Section 405, 502.2, 605.5(2)(3) to expand a substandard dwelling with a 28' x 42' (996 sq. ft.) one-level addition with a crawl space and a 5' x 8' road-side porch, onto an existing 1584 sq. ft. one-level structure with basement that is 48' from the Ordinary High-water Mark of lake (OHW), 7.2' from the side property line, and 31.7' from the road right-of-way. Proposed addition to be 50' from the OHW, 61.1' from the traveled road centerline and exceeds 50% of the value of the existing structure. Property to be served by a new Type IV septic system.

Present: Wendy Manthey

- A. Rhineberger reviewed the property owned which includes a back lot. Board policy is not to include the back lot with the lakeshore parcel. A good portion of the backlot has wetland and a pole building with no room for a backup sewer. The portion between the road and lake is 19,665 sq. ft. and structure is 48' from the ordinary high-water mark of the lake. Addition is to the west side, in line with the lakeside and is 50' from OHM. The proposed addition 996 sq. ft. (one-level with a crawl space), to existing 1,744 sq. (including 382 sq. ft. in a garage). The roof line and crawl space match what exists. The 4' overhang over a concrete slab will be reduced to 2' to bring down the building coverage and meet the 15% maximum allowed by buildings. Building value was reviewed and the proposed addition is over 100% of current value of the structure and the Board can consider this new construction. The sewer design is a multi-flow system and requires a monitoring and maintenance plan. Town Board response was received, subject to P & Z restrictions and a comment of why not make the addition at 75'. A Town Board Supervisor is in the audience. A neighbor questioned why not meet the setback and two neighbors approve.
- B. Jones – the lake setback is improved by 2' and the other is a side setback variance. Rhineberger stated the 7.2' to the side was granted in 1986. Manthey – noted that is the closest corner of garage. Rhineberger – that is an existing corner, but variances were granted and even if the lake setback were being met for the addition, the applicant would have to come back because it is expansion of a non-conforming building. The proposed structure meets the setback on the side it is being expanded.
- C. Quiggle did not think the request is a reasonable; was not in favor of adding another 1,000 sq. ft. to a structure that is not meeting a 75' setback. This is a new purchase and this much expansion at 50' is not reasonable.
- D. Aarestad – he noted this addition is not going closer to the lake, but to the south where there is plenty of room and is away from the lake. The excavation is minimal. He would want to see a storm-water management plan. The side setback is not an issue. He asked if

- they have accessibility to the back. Manthey stated there is access.
- E. Schermann – the Board has been holding to the lake setbacks when expansion is considered new construction. He felt the setback should be as close to the 75' as possible.
- F. Manthey asked if other properties along the road are meeting the 75'. Schermann – felt those are old and this amount of expansion puts this into a classification of “new construction”. Aarestad – asked if they could reduce the addition so it would not be considered new construction, could they do it. Rhineberger – that is the discussion and consideration is where they draw the line; what is too much and at what distance from the lake does the addition becomes too big for the location. Other applicants have addressed this in different ways such as reducing size. Another owner on the lake decided to build new and move it back and the Board granted a 65' lake setback variance. The Board has discretion on what they feel is appropriate in the situation. It can be done in different ways, one is the value of improvement or total square footage. Schermann – when a project is 50% or less, they have given some leeway, however, when it is as high as 100% and considered new construction they have tried to hold it down. Rhineberger agreed, in general, reduction in size or improved setback.
- G. Quiggle felt they would need to see a redesign. New construction at a 65' setback might be more acceptable.
- H. Jones asked if they looked at other plans. Manthey – looked at many options. Tried to keep in symmetry with the lay of lot, lake and fit into the neighborhood. Most structures along the peninsula are one-story homes. A second story would give them substantial square footage, but felt that would be a visual negative. The land drops off to the north, their structure is the last home with a basement. They were going to do a crawl-space under the addition and minimal land excavation. Her husband could better address the details, however, a work commitment prevented his attendance. The backlot would not be buildable and to tear down this structure would not be feasible. However, they have the most land area along this road. Rhineberger stated this road is platted, but privately maintained. Ron Wolff – Township Supervisor –in the audience confirmed they do not maintain the road. The lot in back has a large pond on it and is not buildable. Rhineberger – using the map noted where the 65' road setback is and where the traveled road runs. There is not an area in width of 24' for a minimum 800 sq. ft. dwelling that can meet all the setbacks.
- I. Schermann asked about other options. The applicant would have to come back for replacement with a second level. Manthey indicated that is not what they want. Rhineberger stated any increase in livable space requires a variance. Jones asked for further clarification on the 50% value. Rhineberger explained the average building costs used to calculate that value. To meet that the applicant would have to reduce the addition by half the size. These are not hard and fast things, there are different ways the Board can limit this.
- J. Manthey stated she would like the Board to table this until she can discuss it with her

husband. Schermann agreed. Quiggle informed Manthey that trying to keep the symmetry is what is causing the problem. Increasing the structure by this amount at 48' from the lake is not acceptable. She asked if there is a way to expand their living space at the 60-65' lake setback. Schermann suggested the applicant consider their options and work with Rhineberger. Manthey asked what kind of variances would be needed to expand up. She was informed it requires a variance and new notice would be required. Rhineberger stated the Board has allowed rebuild with a reconfiguration of the footprint, however, he cautioned whether this site would accommodate a new basement. Based on the topography, it is questionable whether there is a 4' separation from the highest known water table. He suggested the applicant keep the Town Board informed of any changes.

- K. Schermann moved to continue the hearing to May 6, 2016 at the applicant's request and direct them to meet with the Town Board with revised plans. Quiggle seconded the motion.

VOTE: CARRIED UNANIMOUSLY

Discussion: Rhineberger stated depending on the changes to the plans, new notices might be required and if continued out further would require a 15.99 waiver signed.

6. **JASON DANIEL LIPINSKI** – New Item

LOCATION: 6761 Bishop Avenue NW– Part of, Section 35, Township 121, Range 26, Wright County, Minnesota. (Maple Twp.) Tax #210-100-352401 & -352101 & -352100 & 263400

Requests a variance of Section 604.6(4) of the Wright County Zoning Ordinance to add 3.16 acre to existing property division previously approved by the Board for a total residential lot of 6.18 acres.

Present: Jason Lipinski, Adam Novacek and Jerry Fogerty

- A. Rhineberger reviewed the entire parcel is 42 acres. A previous 1994 approval to create a restricted recreational 40 acre division. In 2002 a previous owner asked to transfer an “entitlement” and a two-acre division was allowed as long as it was tied with the recreational parcel to give the residential lot road frontage. The requirement was to keep the parcels together. Later in 2002 the applicant requested to add another two acres and the Board limited the expansion to another acre. The reason was the total residential area (3 acres) was all in tillable ground. Written responses were summarized. Town Board was favorable, Schut asked if this is a true hardship, but respects the Board’s decision.
- B. Lipinski explained he is the third generation of a family owned business. The current shop on his dad’s property is in two buildings equal to the proposed building size. He plans to buy his dad out and move the equipment here. With the lay of the land and location of the power line, there is not enough room. He needs room to turn trucks and trailers and get in the proposed shed. They would continue farming except where the building and driveway will sit.
- C. Fogerty stated keeping this adjustment square would eliminate hard corners to farm. The large equipment would not be able to get in there.
- D. Rhineberger the building and use would require a Conditional Use Permit with the Planning Commission. The Commission would address the use, screening etc. Quiggle asked what the business is. Rhineberger – contractor’s yard.
- E. Quiggle stated although it is hard to see a hardship to justify it; seems to be a reasonable use of property, assuming the Planning Commission grants the use.
- F. Aarestad –his first look at the request and fact the previous Board limited expansion of the lot by an acre, he was not inclined to allow this. However, after hearing how it is being farmed and appreciates the continuation of a family business, he could agree.
- G. Schermann stated he also felt he could not support removing more tillable land. He understands small pieces are difficult to farm. Seeing the air photo can now agree.

- H. Jones stated he is in agreement. His experience with farming, he did not want to remove farmland, however, seeing the property would agree with the variance.

- I. Schermann moved to add approximately 3.16 acre (according to Exhibit “A” on file) to existing property division previously approved by the Board for a total residential lot of 6.18 acres. Conditions: 1) An Administrative Order to be signed by the applicant; 2) Request the Auditor combine tax parcels; 3) The previous restrictions on the property still apply to the property; and, 4) Before any business equipment is moved to the property, the proper Conditional Use Permit be obtained. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

7. **RICHARD N. LaBUTE** – New Item

LOCATION: 3488 County Road 33 SE –W ½ of the NE ¼ and the E ½ of SE ¼ of NE ¼,
Wright County, Minnesota. (Rockford Twp.) Tax #215-100-032400

Requests a variance of Section 604.6(4) of the Wright County Zoning Ordinance to allow an 18 acre division (approx.) with existing buildings.

Present: Richard LaBute

- A. Rhineberger reviewed the 86 acre parcel in Rockford Township. The existing farmstead was noted and a survey was submitted with a request to divide 18 acres off with the buildings. As shown on the air photo, this does not include tillable land. A variance is needed because the division exceeds 10 acres. Written favorable response was received from the Town Board.
- B. LaBute - stated his plan is to split off the farm buildings and keep the tillable.
- C. Aarestad questioned if the additional acreage is all low? LaBute stated is 50/50, there is some nice high ground also. Aarestad would not object with more than half of the acreage low ground.
- D. Jones and Quiggle agreed the division makes sense.
- E. Quiggle moved to grant a variance of Section 604.6(4) of the Wright County Zoning Ordinance to allow an 18 acre division (approx.) with existing buildings, subject to survey submitted, marked Exhibit “A”, and held on file. Subject to a Deed Restriction to be filed. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

8. **Board Resolution: Location of Agenda Posting**

On a motion by Schermann, seconded by Aarestad, the Board passed a resolution to establish the official board for posting meetings as the one located outside of the Planning & Zoning Office.

Meeting adjourned at 9:50 a.m.

Respectfully submitted,

Barry J. Rhineberger
Planner

BJR:tp

cc: Board of Adjustment
County Board
Twp. Clerks
Kryzer
Applicant/property owner