

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: May 6, 2016

MINUTES - (Informational)

The Wright County Board of Adjustment met May 6, 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. Barry Rhineberger, Planner, represented the Planning & Zoning Office.

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

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 Court proceedings were completed, however, the representative had a conflict and could not make this meeting. Asked for a continuation to June 3.
- B. Schermann moved to continue the hearing to June 3, 2016 at the applicant's request. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **ROBERT W. MANTHEY** – Cont. from 4/1/16

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: Applicant not present

- A. Rhineberger explained the applicant asked the matter be continued to June.
- B. Mol moved to continue the hearing to June 3, 2016 at the applicant's request. Quiggle seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **NANCY L. LAGERMEIER** – New Item

LOCATION: 3110 58th St. NW –Lot 1, Sandy Beach Addition, according to plat of record, Section 4, Township 120, Range 26, Wright County, Minnesota. (Maple Lake – Maple Lake Twp.) Tax # 210-027-000010

Requests a variance of Section 502.2, 605.5(3) & 612 of the Wright County Zoning Ordinance to allow a 14' x 21'4" addition on the roadside of existing structure that will be 10.5' from the side property line at the closest point; and 73' from the Ordinary High-water Mark of lake (OHM). Existing structure is 41.7' to deck and 52' to dwelling from the OHW. Proposed addition is valued at 55% of the existing structure value. Property is served by a holding tank for sewer.

Present: Dan and Nancy Lagermeier

- A. Rhineberger – reviewed the property location of the 10,877 sq. ft. lot. The existing dwelling is 10.7 & 10.2 from side lines; 52' from the lake, deck extends to 42' from the lake and the proposed addition would be 73' from the ordinary high-water mark. The property is served by a holding tank. Applicant was informed the policy is to limit improvements to a home served by a holding tank by 50% of assessor's value. The proposed addition is one-story over a crawl space and based on value used for building permit, it comes out at 55%. The history includes two separate requests for variance to expand the house were summarized. The Board had granted variances for two separate additions that were never built. The second variance for a three-season porch negated the first variance. This owner would like to maximize the addition. Town Board approval was given.
- B. D. Lagermeier stated the previous projects were proposed by different owners.
- C. Jones asked if they looked to move the structure into compliance with either the DNR requirements or the town road on the other side. Rhineberger stated the Town road setback is met. The survey shows a 57' from the road right-of-way and not to centerline. Jones noted the proposal does not infringe any closer to the lake. The sewer is a holding tank and questioned if they have to look at a different system. Rhineberger explained they have provisions to allow additions on a holding tank. Often times on these smaller lots, the holding tank is the only option and the sizing for the number of bedrooms and the type of soils does not come into play. Some owners will install more tanks.
- D. N. Lagermeier stated they only have one bath. D. Lagermeier stated this is a three-month seasonal use cabin. N. Lagermeier added, there is no furnace or venting for one.
- E. Quiggle stated although it is used seasonal, there could be large summer gatherings.
- F. Schermann was opposed to exceeding the 50% of the current value on a holding tank. Asked if they could down size this to meet the guidelines. D. Lagermeier stated they were aware of the 50% rule, were given \$100 per square foot for the new construction

value, even though this is a seasonal structure. After submitting their plan they found out the crawl space value had to be added which is what put them over. It is possible to change; but they worked hard to keep this within the value and still keep it practical.

- G. Rhineberger noted the applicant has the option of asking the Assessor's office for a re-evaluation of the structure value. He summarized the Board's 2007 policy that addresses the value used for expansion on structures served by a holding tank.
- H. Mol – would agree with Schermann on pushing the envelope on the 50% allowed, but the proposal for a four-bedroom home is of particular concern. This is a very large home on a holding tank. Once they sell the home the use of this dwelling in the future is a concern. He understands the applicant want to accommodate a large family; but also the seasonal home could be converted to year-around. As a long-time resident he has seen these seasonal homes on the lakes become year around.
- I. Quiggle would agree with the Board members comments. She asked if the applicant has ascertained whether there is an alternate sewer system for treatment possible. D. Lagermeier – explained the inspector who certified the holding tank did look at the site to see if that was possible. He did not think it was practical. Variances would be needed and his understanding is that due to the elevation of the lot, the back would have to be built up with retaining walls because the lot is very flat. He asked if a permit would not be needed to turn this into a year around home.
- J. Rhineberger – stated the Board has the authority to place a restriction of “seasonal use” on the property. The Board had one last fall. The difficulty is there is no good way to monitor the use. Schermann agreed there is no way to enforce it. Mol – noted mechanical work can be done inside the home without anyone knowing that work is done. Rhineberger agreed – it is just a mechanical permit.
- K. Quiggle – the other issue is that this home is 42' from the OHM and this addition makes a much larger home very close to the lake.
- L. Aarestad questioned the holding tank location. D. Lagermeier – stated the tank he is asking about belongs to the neighbor. The tank serving his cabin is directly behind the house. Aarestad – was not as concerned about the holding tank for four bedrooms, if used for seasonal. Asked if the new owners are notified it is seasonal use. Rhineberger – if the buyer does a title search when purchasing the property they will see that restriction. N. Lagermeier – they would disclose that restriction when they sell the property. Aarestad – felt comfortable with the proposal if they put the seasonal restriction on the property.
- M. Rhineberger – completed the calculation that would bring the expansion down to 50%. That would allow a 14' x 19' addition. The other option would be to see if the Assessor has the proper valuation on the building.
- N. Schermann –suggested they approve the addition with the size based on the 50% limit. Rhineberger – agreed that would avoid delaying this further. The Board can set the

guidelines on the location and give the applicant a chance to pursue the value. D. Lagermeier – stated they would agree with that option. Rhineberger warned the applicant he did have one applicant that pursued that and his value went down. Schermann summarized the action the Board could take and if they have to downsize it those plans would have to be submitted to Staff. Rhineberger –clarified what the Board is saying is that they are not allowing anything larger than 14' x 21', and at the location on the site plan.

- O. Quiggle moved to grant a variance of Section 502.2, 605.5(3) & 612 of the Wright County Zoning Ordinance to allow a 14' x 21'4" or size that would be equivalent to 50% of the existing structure value, whichever is smaller. Addition to be built on the roadside of existing structure that will be 10.5' from the side property line at the closest point; and 73' from the Ordinary High-water Mark of lake. Existing structure is 41.7' to deck and 52' to dwelling from the OHW. Property is served by a holding tank for sewer and for that reason the property is limited to “seasonal” use only. Aarestad seconded the motion.

DISCUSSION: Rhineberger – asked Quiggle if an in-ground sewer system can be installed if the seasonal use condition still applies. Quiggle stated her intention is if they can get a full treatment system in, that restriction can be lifted.

VOTE: CARRIED UNANIMOUSLY

4. **ANNA M. RYAN**- Cont. 4/1/16

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: Anna Ryan; Paul Otto, Otto Associates, Jan Larson, Attorney

- A. Rhineberger summarized the reason for the continuation was for the applicant’s attorney, the Town Board’s attorney and Town Board to determine the status of a 1975 easement. There were questions on whether the Township had maintained into the easement and determination on whether it is a town road. An easement can expire after 40 years. He explained the Town Board has met on this and had their maintenance person confirms that the road has been maintained by the Township. It was determined that it is a dedicated town road and this property abuts that. The Board is now in a position to proceed with the decision.
- B. Chairman opened up for public comment, hearing none, the matter was brought back to the Board.
- C. The survey prepared by Otto was displayed to show where the easement crosses the properties.
- D. Mol stated he has no problem now that they know the status of the road and the property has legal access. Aarestad, Quiggle and Jones concurred.
- E. Mol moved to grant a division of an existing 68-acre property into two parcels as follows: a 7-acre lot with the existing homestead and 61 acres to have the remaining building “entitlement”. Neither parcel has 300 feet wide on a public road. Jones seconded the motion.

DISCUSSION: *Rhineberger suggested the motion include a Deed Restriction be filed, based on the survey received.*

Mol moved to amend his motion, Jones his second to include the requirement for a Deed Restriction be signed by the property owners and recorded.

VOTE: CARRIED UNANIMOUSLY

5. **RODNEY R. JOHNSON** – New Item

LOCATION: 13390 100TH St. NW – Part of NE ¼, Section 14; Part of SW ¼ of the SE ¼ of Section 11, all in Township 121, Range 28, Wright County, Minnesota. (Lake Augusta - Southside Twp.) Tax #217-000-141203; -141202 & -114300
Property owners: Rodney Johnson, Estate of Hazel Johnson

Requests a lot line adjustment as regulated in Section 502.2 & 604 of the Wright County Zoning Ordinance to reconfigure property lines as follows: Combine the Rodney Johnson homesite (217-000-141203) with that part of parcel #217-000-141202 south of road that will create a 37 acre parcel; and, divide the new home being built by LeBrun, off on approx. 2 acres from tax parcel #217-000-141202 as an entitlement division. The remaining portion of 217-000-141202 north of road and all of 2177-000-114300 to be a one restricted Ag parcel.

Present: Applicant not present

Chairman held the matter over to see if the applicant or representative would arrive.

6. **RICHARD H. SNODGRASS**- New Item

LOCATION: 343 102nd St. NE – Lot 11, Birch Lake Beach, according to plat of record, Section 7, Township 121, Range 25, Wright County, Minnesota. (Birch Lake - Monticello Twp.) Tax # 213-112-000110

Requests a variance of Section 502.2 & 605.5(2). of the Wright County Zoning Ordinance to allow a 24' x 24' detached garage on the road side of the house, 82' from the Ordinary High-water Mark of lake.

Present: Richard Snodgrass

- A. Rhineberger – reviewed the property location on the north side of Birch Lake. The lot is 15,500 sq. ft. and air photo and pictures were displayed to show the location of the dwelling. The proposal is to build a detached garage (24' x 24') on the road side of the dwelling. Rhineberger explained the Ordinance does not say a new structure further from the lake and behind the dwelling can be built, unless it also meets the lake setback. The location of holding tanks were pointed to that is between the road and proposed garage. This prevents moving the garage to the 100' setback line and he is trying to avoid the sewer lines that run from the house to the tank. Otherwise, the garage would have to be quite a distance from the house up near the road. A picture of the house looking from the shore was displayed. The garage would not be visible from the lake. Town Board approves.
- B. Quiggle noted the lot is very deep and asked if the applicant has an idea where the future treatment area might go. She noted the placement of the garage would limit the potential for house replacement in the future. She would not support a new house 40' from the lake, she would want to see a 75' lake setback or limit expansion of the house because the hardship is caused by the owner.
- C. Rhineberger pointed out the well location limits the placement also. Quiggle felt a well could easily be moved. She would not object to the garage behind the house at 82', but would not support enlarging or replacing the existing house at this location.
- D. Aarestad – felt the garage behind seems reasonable; but agreed Quiggle has a good point that the owner should consider and it could limit what would be allowed in the future. But, something the owner should decide. He asked how the property drops off and the drainage. Snodgrass reviewed the topography and indicated the water runoff drains toward the road.
- E. Jones addressed the well placement and asked if the garage could be moved roadside. Snodgrass stated the holding tanks were just installed last fall and had to meet certain distances from the neighbors well, his well and house. There might be a possibility of a drainfield; however, at the time the designer felt the ground water level was too high. The tanks were installed along with an observation pipe for monitoring the groundwater table.

- F. Schermann would agree with Quiggle. This dwelling is only 720 sq. ft. and someone might want a larger dwelling. The water level here is a concern. He felt the garage should be moved further back if possible.
- G. Mol – stated he agrees with the Board members concerns. Even if this owner does not want to expand, a future owner might. Are they saying a deck would not be allowed lakeside? He suggested the applicant might want to continue the hearing to look at the options. The Board addresses expansions all the time and owner might not want those limits.
- H. Rhineberger stated this is in the shoreland impact zone and how much addition might be allowed is always a concern. He did not think an addition is entirely out of the question, but this close to the lake is the question. Quiggle stated with the depth of this lot should if someone should want a new house, it should be at the 100' setback. She felt he was putting the garage where a new house should go. Rhineberger noted the applicant would have to move the garage and holding tanks to do that.
- I. Schermann felt the decision is the applicant's, and would agree if the applicant wants to do something else in the future, this might prevent that. Board members concurred that the applicant should understand that if the location is approved. Rhineberger would agree this would make it much more difficult.
- J. Snodgrass stated he understands and is willing to live with those limits. He noted the garage near the road would need a 65' setback variance. Mol felt most of the time a town road setback might be easier to justify. Snodgrass explained for convenience, especially during the winter the proposed location is better for his wood working.
- K. Quiggle moved to grant a variance of Section 502.2 & 605.5(2). of the Wright County Zoning Ordinance to allow a 24' x 24' detached garage on the road side of the house, 82' from the Ordinary High-water Mark of lake where a 100' setback is required. The applicant understands that the Board would consider this is a self-inflicted practical difficulty if the applicant or any future owner should decide to expand or rebuild the house. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

7. **WRIGHT COUNTY PARKS DEPARTMENT**- New Item

LOCATION: 9842 Briarwood Ave. NE –Part of the N ½ of NW ¼; Gov't Lots 3 & 4, all in Section 17, Township 121, Range 25, Wright County, Minnesota.. (Bertram Lake - Monticello Twp.) Tax # 213-100-171100/-172100 & -171200 Owner: Wright County & Lamm

Requests a variance of Section 502.2 & 612 to construct two 36' x 50' picnic shelters at a 110' from the Ordinary High-water Mark of Lake; and a 30' x 80' and 20' x 24' day-use restroom/beach house 185' from Ordinary High-water mark of lake. Also requesting a lot line adjustment to attach that portion of tax parcel #213-100-172100 south and east of Briarwood Ave. to the County Park property.

Present: Marc Mattice, Wright County Parks Administrator

- A. Rhineberger explained there are two parts to the request. Three structures for the park are proposed closer to the lake than 200' required; and, the second part is a lot line adjustment. The site plan and air photo were displayed to show the location. Two picnic shelters and a bathroom-changing room building are proposed. Applicant has provided a floor plan. Some structures will be removed. Pictures taken of the lake and beach area were viewed. The lot line adjustment is a pie shaped parcel between the road and lake that they have a purchase agreement with that owner. Town Board approval was received.
- B. Mattice – explained the park project started in 2008 when the first parcel was acquired and subsequent parcels as grant funds were obtained. This is a partnership with the City of Monticello. He pointed out the parcel this coming summer to be purchased that is along CR 39, approximately 50 acres. Leaving the middle 40 acres to be acquired which will be part of the active use they hope to acquire for the City of Monticello's athletic fields in 2017. The County is proposing a passive use facility. After polling County residents, they have determined what use the community would like to see. The beach and day use area is the heavier use and very similar to the one near Clearwater and on Beebe Lake. The buildings would be built next year and a decision on location would allow them to continue planning efforts that include architectural plans and construction. They obtained a joint Conditional Use Permit with the YMCA a couple years ago, that includes a day camp through the YMCA program that starts this coming summer. The first shelter to be built is their priority and the second is a future possibility. The second one would not be built if the first one is not used. The access that is aggregate goes up to the high ground to the parking lot. There are some landings. Trails are primarily for accessible routes to facilities. The location of the shelter building would look over the beach. He explained the location was chosen because the land behind drops from there down a hill side and into a wetland. This is the reason the variance of a 200' setback is requested. They want to keep this high with good visibility for families watching children on the beach. This location is suggested by the 15 member advisory board. The changing room would need a 15' setback variance. The reason is to preserve some very

large oak trees. The building will serve the storage needs and keep the kayaks for the life guards.

- C. Aarestad – felt the plan seems well thought out. He likes the idea of the shelter location which would provide ability to watch the family at the beach. This serves the better good and use for the community.
- D. Jones and Schermann concurred with the plan. Mol – felt they have given individual property owners closer variances than this and felt it is justified. Quiggle concurred with the statements.
- E. The lot line adjustment was also supported by the Board.
- F. Mol moved to approve variances according to Exhibit “A”, held on file. A variance of Section 502.2 & 612 to construct two 36’ x 50’ picnic shelters at a 110’ from the Ordinary High-water Mark of Lake; and a 30’ x 80’ and 20’ x 24’ day-use restroom/beach house 185’ from Ordinary High-water mark of lake. Also approving a lot line adjustment to attach that portion of tax parcel #213-100-172100 south and east of Briarwood Ave. to the County Park property. Aarestad seconded the motion.

DISCUSSION: Applicant mentioned the second shelter may not get built right away. Board indicated they would be willing waive the three-year time limit to use the variance.

Mol amended his motion to include: there will be no time-limit on the variance for building the second shelter as referenced on Exhibit “A”. Aarestad amended his second.

VOTE: CARRIED UNANIMOUSLY

8. **RYAN R. NELSON** – New Item

LOCATION: xxx Aetna Avenue NE – Part of S ½ of NE ¼, Section 6, Township 121, Range 25, Wright County, Minnesota. (Monticello Twp.) Tax #213-100-061300

Requests a variance of Section 502.2 & 604.6(4) of the Wright County Zoning Ordinance to allow a 30-acre (approx.) “entitlement” division on an owned access strip on the back (east) side of parcel.

Present: Gary Nelson

- A. Rhineberger – reviewed the 71 acre parcel. Proposal is to separate off 30 acres with an access strip to use the remaining “entitlement” and encompass the woods. The air photo displayed was to show the farmland out front and the trees that take up 30 acres. The scattered trees in the middle near the north line would be removed and farmed. The irrigation pivots into that area and they plan to keep the farmland and sell off the building entitlement. The existing 10 acre entitlement division was noted with one “entitlement” remaining. A written response from Lounsbury indicated no objection and the Town Board response was favorable, noting it keeps the tillable land together. The access width should be limited to 33’ wide.
- B. Jones stated he is familiar with the property. This is a long access strip, but has no problem with it. Nelson stated that is the only way they could do it.
- C. Schermann concurred, noting the 30 acres would not be farmed.
- D. Mol – is there buildable area. Rhineberger – there is quite a bit more area south of the ditch than what it looks like on the photo. There is a slope and adequate area to build. If they want to go through the process to fill and get to the other side to build they can. Mol – he does to want to approve a division that would create another issue and impact a wetland.
- E. Aarestad and Quiggle had no objection to the proposal.
- F. Jones moved to grant a variance of Section 502.2 & 604.6(4) of the Wright County Zoning Ordinance to allow a 30-acre (approx.) “entitlement” division on an owned 33’ wide access strip, as recommended by the Town Board, on the back (east) side of parcel. Condition: Soil borings to be submitted and property owner to sign a Deed Restriction. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION: Rhineberger explained to complete this approval, the applicant has to hire a site evaluator to go out do the borings for sewer and have a surveyor survey the division and submit to Staff to prepare the Deed Restriction assigning the entitlement.

9. **ROGER A. JAMES** – New Item

LOCATION: 1562 60TH St. NE – Part of S ½ of SE ¼ of NW ¼ and 1 rod off the east side of the N ½ of SE ¼ of NW ¼ of NE ¼ and 1 rod square, in the NE /14, all in Section 32, Township 121, Range 25, Wright County, Minnesota. (Monticello Twp.) Tax # 213-100-324405 Property owners: James Living Trust & Sharon Goetzke

Requests a variance of Section 502.2 & 604. of the Wright County Zoning Ordinance to allow the division of the existing home site on 1.08 acres, leaving 98 acres with a building entitlement and less than 300 ft. of road frontage (238 ft. remaining).

Present: Roger & Mary James

- A. Rhineberger displayed the air photo and proposed division of the 99.7 acre farm with the existing residence. The location of a cell tower was noted, which uses an “entitlement”. The division is for an acre with the existing house and sewer. The applicant has determined they can meet the setbacks required, including from an accessory building. The reason this is before the Board is there is only 440’ of road frontage and does not have enough frontage for both parcels on the road. The Town Board response was favorable.
- B. Board members after reviewing the proposal felt it was reasonable.
- C. Aarestad moved to grant a variance of Section 502.2 & 604. of the Wright County Zoning Ordinance to allow the division of the existing home site on 1.08 acres, leaving 98 acres with a building entitlement and less than 300 ft. of road frontage (238 ft. remaining).
Subject to a survey to be submitted to Staff and sign proper Deed Restriction prior to sale. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **JOHNSON** – Cont. from earlier on the agenda

Present: Applicant not present

- A. Rhineberger suggested the Board continue the matter to June 3 and he would contact the applicant to inform him attendance is required. Schermann indicated Staff should advise the applicant if he does not attend that meeting, the Board would likely dismiss the request.
- B. Mol moved to continue the hearing to June 3, 2016 and inform the applicant this presence is required. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

MINUTES

On a motion by Mol, seconded by Quiggle, all moved to accept the minutes for the March 4, and April 1, 2016 meetings as printed.

Meeting adjourned at 10:00 a.m.

Respectfully submitted,

Barry J. Rhineberger
Planner

BJR:tp

Cc: Board of Adjustment
County Board of Commissioners
Kryzer
Twp. Clerks