

# WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: June 3, 2016

## MINUTES – (Informational)

The Wright County Board of Adjustment met June 3, 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 5/6/16

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: David Meyers, representing AgStar; Larry Grimlie

- A. Meyers explained the Board directed them to complete the pending Court case and try to negotiate a settlement. In summary, litigation takes a long time. He explained twice the judge looked at the evidence and threw out the case before it started with consideration of awarding AgStar attorney's fees. In front of the judge, AgStar offered Grimlie the five acres free and he has refused. AgStar is not a land holding company and they are trying to fix the problem for all parties. They are asking for permission to sell the 70 acres with the entitlement and hold the five acres with Grimlie. At some point there will be different owners and will be back before the Board. AgStar is willing to keep their interest and pay the taxes on it until a sale can be negotiated to recombine. Not sure there is any other reasonable solution.
- B. Grimlie – explained his position. Meyers went in front of the judge and said they got Zoning approval to sell the five acres and the 70 acres. This would not have been a problem if they would have gotten approval first. He wants the 75 acres back and made several offers. Meyers is going in front of the judge making false statements. Schermann stated the Board heard all this months back. The Board is hearing the same problem and it is not their position to solve. The decision is to determine if the Administrator made the right decision. The parties have to settle the other issues. Grimlie stated they have not made any other offer. This is an illegal subdivision of five acres.
- C. Riley stated the Planning & Zoning did not create the subdivision. This was done by the landowner and bank. The decision before the judge was to act on the foreclosure and that is beyond the County's control. The Office is saying the five acres and 70 acres cannot be sold separately. The decision is whether the Board feels they can resolve it. If not, what is done with the 70 acres and what the future will bring. He would not want to see a new owner acquire the 70 acres and have to deal with it then.
- D. Jones did not know how the Board can allow the applicant his request. This would set a bad precedent and the Plan is designed to prevent these small restricted parcels. The financial institution did not do their proper research. There are other situations where people did not contact the Office to see what they can do. The Zoning Office made the

decision because that is what they have to do. He would support the denial and let the five-acre parcel sit indefinitely.

- E. Schermann agreed it would be a poor precedent and could not support the request.
- F. Mol asked if by holding this up, would the five acres sit there with the “entitlement”. Riley it has been split and noted he cannot prevent people from recording deeds. He could not say what will happen whether they would approve this or not. Mol – it is split and asked about the “entitlement”. Riley the “entitlement” is held hostage because of the illegal division. The foreclosure parcel has a property line going through a pole shed. Either increase the parcel to ten acres, no setback problem, etc. and attach it to the house parcel.
- G. Quiggle – summarized the situation. The applicant is asking to keep the “entitlement” and ability to sell it with the 70 acres. Keeping the five acres until it can be recombined with either parcel. Riley – the intent of creating this piece was not to use the “entitlement” on the small parcel. He could not approve this illegal division. The balance of the parcel is in the Land Use Plan and a request could come forward for a rezoning request. Quiggle - the parcel is unusual. Riley stated he cannot decide who should hold that parcel. Quiggle – if they make this a legal division and apply for a variance of the subdivision ordinance, she thought they could meet the requirements for a variance. The Board then can address a condition on who owns it. Riley that is not the application before them. If that were done until it is combined back, it would sit without road frontage and have a line running through a building. Even if they accepted that, they cannot force anyone to take ownership of land. Quiggle stated she would suggest the 70 acres would have the entitlement, leaving the five acres with conditions that it has to be recombined with either piece. Riley – that is the same result, but that is a different request to be made by the applicant.
- H. Schermann –could not support the request. Quiggle asked why the applicant did not go one step further, asking for a legal division with conditions placed on that. Meyers – stated that was his analysis and in talking with the Zoning Office this was the direction given by the Office and County Attorney. He had intended and would be glad to bring a new application for a variance if that is what the Board wants him to do. Riley – he did come in and ask and explained that the Board would not want to get in the middle of the situation. The parties should figure it out. When that did not work out and they came in and wanted to sell the 70 acres with an entitlement, the applicant was told he could not and it ended up an appeal. If the majority of the Board agrees that framing it in a different way, it should be discussed. It does not pay to go down that road if the result is the same. Schermann – felt if the parties could not agree and the Court would not hear this, felt they would have the same decision. Riley if there is another application filed, the Board would have to consider it. Quiggle it is her opinion the applicant should apply for a variance and felt it could meet the exception rules and they are being deprived substantially of their property rights. Rhineberger – noted that is something they did themselves by making the division. Quiggle agreed Riley made the right call, but they should back up.
- I. Aarestad felt the applicant has used common sense. This is complicated and the appeal of Planning & Zoning and would agree they made the right call. He felt Quiggle makes a good argument and would consider that.

- J. Rhineberger – this request is similar to any other approval or denial; and if the applicant is contemplating another application, it may be in their best interest to dismiss and resubmit a new application. If there is a pending issue that has not been decided, they cannot make another application. Meyers – understands how this works as a member on a Board of Adjustment for fifteen years. He would like to have the petition dismissed and would follow up with a letter before a decision is made. Rhineberger stated there is a form he can sign.
- K. Schermann moved to accept the applicant's request for dismissal on the condition the applicant sign the withdrawal form. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **ROBERT W. MANTHEY** – Cont. from 5/6/16

LOCATION: 3060 58<sup>TH</sup> 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: Robert & Wendy Manthey

- A. Rhineberger displayed the property location. Drawings show the original request was reviewed and a new plan outlined to show the differences. The new plan pulls the addition back to 62' from the ordinary high-water mark of the lake, improving the setback from 50' which is the original structure. The size is reduced to 240 sq. ft.; they will keep a 4' overhang, but reduces surface area by 100-150 sq. ft. However, this pushes the addition within 19' from the sewer and 20' is required. He noted the Board can address that, although it is a separation that Environmental Health can approve administratively. The addition does not infringe on the side setback.
- B. R. Manthey – they did follow the guidance given by Ms. Quiggle with a 62' setback from the lake, compromise of the 65' she requested; and the Chairman's suggestion on value of the structure. The site plan includes a plan for a rain garden. Using the topographical survey, soil borings and using the DNR's website, a 10' x 20' kidney-shaped rain garden has been designed. The location is ideal and he described the lay of the land in relation to the neighbor's land and felt this would direct the water to the center of the rain garden.
- C. Rhineberger stated the square footage of 50% was met, however, the value exceeds half.
- D. Mol asked about the Town Board's recommendation. Rhineberger stated he did not receive anything in writing; but, spoke with one of the supervisors who relayed there was a vote of 2/1 and they left the decision up to the Board. Mol felt the applicant has worked hard to meet the requirements, however, there is much going on. Would agree a rain garden helps address the drainage, however, this is a large addition that concerns him.
- E. Quiggle agrees in large part. This is now less than half of what exists in building area; she would prefer the movement back from the lake and appreciates the plans for the rain garden structure to control water.
- F. Aarestad agreed with Quiggle. The setbacks seem reasonable. The reduced addition is proportionate with the lot size.

- G. Jones concurred, felt the applicant did a good job trying to meet the Board's concerns. Schermann agreed it is hard to meet the 50% limits on size and value.
- H. Quiggle moved to grant a variance of Section 405, 502.2, 605.5(2)(3) to expand a substandard dwelling with a 760 sq. ft. one-level addition with a crawl space and a 6' 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 62.5' from the OHW, 59' from the traveled road centerline and 19.1' from the sewer system which is a new Type IV septic system. Condition: Applicant to install a 10' x 20' "kidney" shaped rain garden to help mitigate storm-water and property owners must maintain this into perpetuity. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **CRAIG E. FAUTSCH** – New Item

LOCATION: 4676 Culver Avenue NW - Lot 4, Sullivan's Rolling Acres Third Addition, Section 10, Township 120, Range 26, Wright County, MN. (Sullivan Lake-Maple Lake Twp.) Tax #210-033-000040

Petitions for a variance of Section 502.2 & 716 of the Wright County Zoning Ordinance to install a 1650 gal. holding tank 2.5 ft. from the side property line and 2.5 ft. from the road right-of-way.

Present: Bill & Carol Koch, representing the applicant

- A. Rhineberger reviewed the property location on Sullivan Lake. The small lake lot was viewed on the air photo and pictures taken of the property. In order to meet the well and lake setbacks, there was difficulty finding a location for a new sewer. The only solution was a holding tank. Town Board approves. The location for the tank is where a shed used to sit.
- B. Koch stated that the owner had spoken to the adjacent neighbor and he has no issues with the placement. This is the only option that allows them to meet the well and lake setbacks. The installer is planning installation in a few weeks.
- C. Rhineberger stated this is being done for Point of Sale as the existing system is non-compliant. He noted the channel of the lake and the Recreational Development lake classification requires an increased setback.
- D. Quiggle felt this seems to be the only solution. She would like to stipulate that the use of the cabin is limited to seasonal only. This will alert potential buyers that the cabin could not be replaced on a holding tank.
- E. Aarestad, Jones and Mol indicated they are in agreement with the variance. Mol noted the close proximity to the road right of way, however, if the Town Board agreed he would be willing to go along with it. Schermann agreed this Town Board had problems with other sewer in close proximity to their road right of ways. Rhineberger noted this tank will be buried, the other situation involved a plow nicking a mound sewer.
- F. Mol moved to grant a variance of Section 502.2 & 716 of the Wright County Zoning Ordinance to install a 1650 gal. holding tank 2.5 ft. from the side property line and 2.5 ft. from the road right-of-way. Jones seconded the motion.

VOTE: CARRIED UNANIMUOSLY

4. **RODNEY R. JOHNSON** – Cont. from 5/6/16

LOCATION: 13390 100<sup>TH</sup> 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 217-000-114300 to be a one restricted Ag parcel.

Present: Rodney Johnson

- A. Rhineberger outlined the existing tax parcel boundaries and the existing homes. The most northern portion of the farm is in a different section and has a separate tax parcel. The existing lot and home are to be combined with the farmland south of the road. A new house is currently under construction by LeBrun that was a replacement, this is to be split off on its own 2-acre lot and the rest of the land north of the road combined (including lake front parcel in Section 11 as a restricted parcel. Rhineberger noted the portion that is in the Land Use Plan and there is a chance it could be rezoned someday. He noted there are some slope issues with that portion of the property which would have to be overcome.
- B. Board members discussed and confirmed the location of the divisions and the proposal was agreeable to them.
- C. Aarestad moved to grant a lot line adjustment according to Exhibit “A” held on file, 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 217-000-114300 to be a one restricted Ag parcel. Condition: Division is subject to survey and a Deed Restriction and Administrative Order must be signed and recorded. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **JOEL A. VON ENDE** – New Item

LOCATION: 13371 102nd St. NW - Lot 4, Augusta Peninsula Shores, Section 11, Township 121, Range 28, Wright County, MN. (Lake Augusta – Southside Twp.) Tax #217-015-000040

Petitions for a variance of Section 302.1, 404, 502.2 605.5 (2) & (3), 612 & 716.3 of the Wright County Zoning Ordinance to allow construction of a 22' x 26' two-story detached garage on the road-side of dwelling; with a 12/12 roof pitch and 8 ft. of headroom in an upper level, to be 76 ft. from the ordinary high-water mark (OHW) of a Recreational Development lake, 5.4 ft. from the property line and 11.4 ft. from the road right-of-way (28.3 ft. from the traveled centerline). Also proposed is a new septic system to be 2 ft. from the property line and 2' from the road right-of-way. Lot is undersized.

Present: Joel & Kim Von Ende

- A. Rhineberger reviewed the 7,750 sq. ft. lot on Lake Augusta. There are two separate items. First, the 22' x 26' detached garage is proposed 5.4' from the property line, 11.4' from the road right-of way line, which is 28' 3' from the actual travelled road. He noted the 12:12 roof pitch includes an 8 ft. storage area which is not allowed on lots less than one acre. Also, a full treatment system is proposed (holding tanks exist) that would be 2' from the road right of way, 2' from the property line and 10' from the garage to treatment area. That is 10' closer than allowed because of the upper level proposed in the garage. Second-levels in a storage structure are not allowed and a determination on that space should be discussed. The applicant is scheduled to meet with the Town Board the following Monday night, however, suggested the applicant to start the discussion on the request. If there are any changes the Board would like to see, those could be made and presented to the Town Board. The adjoining neighbor responded that he is downhill from the site. He is concerned about the close proximity to his line, also how this affects the drainage that all comes down to his lot. Another concern is the close proximity to the road. There is not enough room to park in front of the garage without being in the road right of way. Potential damage to the road or his property and trespassing during the construction are his concerns. (see response on file)
- B. J. Von Ende – the cabin is very small, 650 sq. ft. and they need more storage. The upper level in the garage is to be used for storage. He addressed the drainage and stated water runs right down the road to the neighbor's property, that will not change unless the road itself is changed; and this construction should not impact where the water goes. He plans to put gutters on the garage and is willing to keep that watershed on his own property. They also use rain barrels. K. Von Ende – stated they put a garage plan together quickly and understand the problem with the pitch and are willing to modify the plans so they could at least have a one-stall garage with some storage. The area above the garage would not be used for living space, just storage.
- C. Rhineberger – another written response was from the Clearwater River Watershed District asking for a storm water management plan, gutters a rain garden and that they restore the shoreland to a natural shoreline. Rhineberger stated there are some DNR model rules for a

50' buffer of natural vegetation buffer. That is not in the County ordinance, but it is the CRWSD suggestion.

- D. Jones appreciated Mrs. Von Ende's comments and asked what size garage they could live with. They have to cut it back to a 6:12 roof pitch. K. Von Ende – they went from a large home to a small two-bedroom home. They would like a garage and are asking what size they could have and to table this and come back with a new plan. The first matter they want addressed is the sewer system because they are pumping the tanks every two weeks. She would agree to a more natural shore and is looking at plants that would survive if flooded. They are in process of trying to determine what they can put in. They have had the property 26 years and J. Von Ende stated they have lost three feet of shore. Jones – he would like them to determine what area is needed for the sewer. He questioned if they could give the variance for the sewer and delay action on the garage. Rhineberger – that is not the usual procedure and noted one item could affect the other.
- E. Mol – agreed he felt this is too much for such a small lot. Appreciates the applicant who is willing to work on the plan and meet with the Town Board. He recalled another garage on lake property that they made the owners reduce the pitch. He would like to see them improve the setback off the road also.
- F. Quiggle – suggested they get the garage off the road and side lines and that will determine the size garage. She would not support more than 6:12 roof pitch. It may be more of a storage shed than a garage. J. Von Ende – had a designer a few years ago that approved a sewer that was actually in the road right of way and the Town Board had approved. This is a private road and the tar is very narrow. He since had a different designer, Miller, redesign to get all of the sewer on the lot.
- G. Schermann – indicated he would not support 5.43' off a side property line and would like an 8' setback met. Rhineberger noted 10' is the minimum setback. Schermann also would like to see a plan to show how the water coming off the garage will be handled.
- H. Aarestad – the garage setback from the road is also a concern so there is parking area. He would suggest a smaller garage may be appropriate if they can improve the setbacks and address concerns mentioned.
- I. K. Von Ende stated they have changed the sewer design and well location. They will come in on a track to install a new well to facilitate where Miller has indicated is the only location the sewer can go.
- J. Schermann moved to continue the hearing to July 8, 2016 for further consideration and modifications to the garage plan and also to meet with the Town Board. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

6. **NEIL K. SCHLAGEL** - New Item

LOCATION: 10673 Grover Avenue SW – Lots 31 & 32, Terra Teresa, according to plat of record, Section 25, Township 118, Range 27, Wright County, MN. (Victor Twp.) Tax #219-016-000310/000320

Requests a variance of Section 403, 502.2, 605.5(3) & 612 of the Wright County Zoning Ordinance to construct an 18.5' x 29.5' two-story addition 58 ft. from the Ordinary High-water Mark (OHW) of a Recreational Development lake. Also construct a 28' x 28.5' attached garage with an 18' x 28.5' upper-level and 5' x 14' porch roadside of the proposed dwelling addition, 10.7 ft. from the north side property line. Existing structure is 60 ft. and the deck 54 ft. from the OHW and 11 ft. from the south property line. Proposed addition will increase impervious coverage to 25.56%.

Present: Susan Schlagel and her contractor, Joe Keating

- A. Rhineberger reviewed the location of the 24,730 sq. ft. lot on Lake Mary. The location of the existing dwelling and setbacks were reviewed. Removing the detached garage and replacing it with an attached garage with living space above it. The addition two-story and extends 2' closer than the existing structure, noted the line on the site plan. Plans were displayed to show the addition is on a slab and includes living space over the garage. On the road side there is a porch that extends from the addition.
- B. Schermann asked about the roof pitch of the addition. 28.9' from grade to peak, it looks like a 12:12 pitch on the main portion. Quiggle asked if there is a picture of the building looking from the lakeside. Rhineberger – indicated a picture was not submitted. The schematic of the structure was displayed to show the profile from the lakeside. Pictures of the site were viewed to show where the addition would go and view from neighbors. Keating explained full architectural plans would be submitted for a building permit.
- C. Town Board approval was received.
- D. Rhineberger – stated the impervious coverage calculations indicated the project is 25.56 %, although the survey shows 24.6% it did not include an existing deck. An air photo shows in 2011 the significant patio areas that were added (did not require a permit).
- E. Mol – has a lot of questions and concerns with this. Felt lot coverage is excessive. Asked about the 12:12 roof pitch and overall impact of that height. Rhineberger noted with a dwelling there is not a policy. A number of homes have higher pitches, although it is a consideration of the overall impact. The value of new construction is 124% and should be considered. Mol – he would like to see some downsizing and the Board has set limits on the overall height of a dwelling.
- F. Quiggle would consider this new construction which is supposed to meet setbacks as best as possible. She would suggest they start over and build a whole new structure. This is not a minor addition, but cobbled onto an existing building.

- G. Aarestad – would not want expansion encroach closer to setbacks. He questioned the position of the porch. Rhineberger – clarified that is on the back. He would agree with Quiggle, need to go back and make some changes, especially on the overall height.
- H. Jones – agrees with the comments made by other Board members. To get his vote of approval he would agree they would need to make some changes. The 12:12 pitch is a big concern; he asked where is all the water going? They have no plans to show how it will be handled. Rhineberger explained the concern is how the structure will impact the lake. The DNR has guidelines on how the profile of structures appear from the lake, especially this close.
- I. Quiggle asked the purpose of the second story. The plans do not show the use. Keating stated this is for future room and storage.
- J. Schermann summarized the concerns that include: the roof pitch, more than doubling the size and overall coverage. He reviewed the action the Board can take. Keating asked for a continuation to July.
- K. Mol moved to continue the hearing to July 8, 2016. New plans to be submitted to Staff a minimum of one week before the next meeting. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

7. **WILLIAM JOHANSSON** – New Item

LOCATION: 4963 128<sup>th</sup> Street NW – Part of Gov't Lot 3, Section 32, Township 122, Range 26, Wright County, MN. (Limestone Lake - Silver Creek Twp.) Tax #216-100-322302  
Requests a variance of Section 404.2, 502.2 612 of the Wright County Zoning Ordinance to allow replacement of the existing one-level walkout dwelling with breezeway and single attached garage with a new 35' x 39' one-level over a walkout dwelling (same as existing) with an 18.5' x 18.5' one-level addition (replacing the breezeway) and 22.5' x 25' double attached garage. The proposed dwelling includes a 3.5 ft. overhang lakeside. Existing and proposed dwelling to be 39.1 ft. from the Ordinary High-water mark of a Recreational Development lake. Proposal includes replacement of the existing 16' x 20' deck that is 34.7 ft. from the Ordinary High-water mark of lake.

Present: William, Lisa and David Johansson

- A. Rhineberger reviewed the 31,580 sq. ft. lot on a Recreational Development lake, Limestone. Applicant first was looking at repairs and making the single garage into a double; however, the existing structure is not sound. Full replacement and expansion of the structure is proposed. A walkout with one level above and breezeway will be replaced. The location proposed is at the same location. Plans submitted show an increase in roof pitch and a cross section/floor plans of the 1365 sq. ft. one-level with basement, 342 sq. ft. one-level breezeway and 562.6 sq. ft. attached garage were received. A landscaping plan for post-construction was submitted. Town Board approval was received. Neighbor felt they should improve the setback.
- B. Quiggle – feels new construction should meet setbacks as best as possible. Exact replacement is allowed, however, this is expansion of coverage, overall height and area. This is less than 40' from the lake and within the shoreland impact zone. Application says the hardship is the current sewer system, however, was installed in 2011 at time of purchase. She finds that timing does not cause a hardship because the location of the sewer was at time of purchase and could be moved and allow the house to be moved back.
- C. Aarestad – a two-car garage is reasonable, but 39' from lake is his main concern, that is in the impact zone. Would like the garage moved back considerably to improve the setback. He commended the applicant on the landscape plans to restore the shoreland to native.
- D. D. Johansson – has more information on the septic, plans from the original designer were submitted to the Board. The property was sold on a mortgage default. When he called the County before closing, the previous owner had put in a new well and a plan had already been submitted and accepted by the County. At the time they had thought the structure was sound, but since have found the foundation is not good. Noted the location of the new and older sewer systems and pointed to the location of the tanks. He noted the reason the drainfield was designed at this location was to avoid a slope. Noted much vegetation on the south side, mature pines and trees that they are trying to protect. Also, having difficulty on how they would move this back. W. Johansson – noted there is some additional room between the house and drainfield if they have to move back. He noted where the existing

shed, cement slab and an old foundation are. Rhineberger – there is an existing walkout basement with 34' from lakeshore to back and use the existing basement as the walkout.

- E. Much discussion followed about the elevations, trees the applicant wants to preserve and amount of excavation needed to move back. Rhineberger pointed out the site has already been excavated for the existing walkout. Moving the setback to the back edge of the existing basement would not involve much excavation, other than for the basement itself. Moving further back it would require more excavation. Board members were of a consensus they would like to see the setback from the lake improved. Jones asked if the applicant would be willing to consider that. D. Johansson – stated they would consider that as a solution. Rhineberger noted moving the tanks would be a viable solution.
- F. Quiggle suggested moving back 25' and improve as much as possible. This lake has a 100' setback. Schermann agreed, as far back as they can. D. Johansson stated they want enough room to get the prairie grass restoration and explained the natural vegetation and this native plantings is what they appreciate about the property. Jones – stated the Board's primary concern is to gain as much distance from the lake as possible. They could look for other places on the lot to do this restoration. Rhineberger felt there is a lot of room between the house and shed, about 108' to do this. W. Johansson – said the sewer designer stated they need 20' from the sewer. Rhineberger – this Board can vary that.
- G. Schermann stated he would like to see at least 60'+ from the lake. Mol concurred with the comments, but would want them to address the water coming off the roof and would want that shown on the plans. Rhineberger asked if they were planning to gutter the structure? D. Johansson indicated they were undecided. He asked if they replace the dwelling without expansion if that requires a variance. Rhineberger explained what "exact" replacement means. This provision would be the "cube" (livable area) and could increase roof pitch or a space below for a crawl space for utilities and not to exceed 6' of headroom within the trusses.
- H. L. Johansson – stated if they move back it could require removal of two mature pine trees. Some of the natural features is why they purchased the property. Would like a two-car attached garage for their cars and that might put them too close to the property line. Rhineberger – there are 27' to the south line and they can shift over and back and avoid those trees and meet setbacks.
- I. Quiggle noted the existing footprint can be redesigned. Mol – if there is any way to meet the setback they should. Rhineberger – they can reconfigure the box and try and meet setbacks the best they can. It may make sense to use the hole from the existing structure or fill it in.
- J. Quiggle moved to continue the hearing to July 8, 2016 for revisions. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

8. **ALYAS MASIH** – New Item

LOCATION: 4841 140<sup>th</sup> Street NW –Part of NW ¼ of NW ¼, Section 29, Township 122, Range 26, Wright County, Minnesota. (Silver Creek Twp.) Tax #216-100-292201 & -292200 Property owners: Applicant & Betzler

Requests a variance of Section 502.2 & 604.5(3) to allow conversion of existing attached garage to main level living space and construct a new 26' x 51.5' attached garage with a second story to be 20 ft. from the side property line. If not granted, second option second option is to request a variance to expand the lot that was a division from a "lot of record" by adding 10 feet to the east side of the property (from Betzler).

Present: Alyas Masih

- A. Rhineberger outlined the property. Applicant proposes to convert the existing garage into living space and add a 26' x 51.5' garage with storage space above, 20' from the side line where 30' is required. The second part of the request is for a lot line adjustment if the Board does not support the setback variance. Town Board approval was received for both scenarios.
- B. Masih – explained he prefers the variance of the setback as this will avoid changing his title. There are no close neighbors as shown on the air photo. His neighbor has agreed to sell him additional land to give him the setback, if needed. He noted the addition only encroaches at one corner because of the angle of the building.
- C. Rhineberger noted there are woods that shield this.
- D. Quiggle questioned the use. This is a very large garage addition and he does not have plans for the second floor.
- E. Masih explained he has seven children and this will give them storage and additional garage stalls. Quiggle would be concerned if this would become a second living unit. However, she would not object to living space for the existing dwelling.
- F. Aarestad – no objection and would grant a variance.
- G. Jones – no objection. Aarestad would agree with Quiggle they add a condition it cannot be used as a separate living unit.
- H. Schermann and Mol agree with the variance.
- I. Quiggle moved to grant a variance of Section 502.2 & 604.5(3) to allow conversion of existing attached garage to main level living space and construct a new 26' x 51.5' attached garage with a second story to be 20 ft. from the side property line. Reason: Only one corner of the garage extends into the setback. Condition: second story of the new garage cannot be constructed or used as a separate living unit. Board dismisses the request for the lot line adjustment. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

9. **TEMPLE SENGER** – New Item

LOCATION: 12374 Aetna Avenue NE –Lot 14, Block 1, Oakwood Manor, according to plat of record, Section 31, Township 122, Range 25, Wright County, Minnesota. (Monticello Twp.) Tax #213-223-001140

Requests a variance of Section 502.2 & 716.3 Table 3 of the Wright County Zoning Ordinance to allow a “Type 1” septic system to be installed 5’ from the south and east property lines.

Present: Temple Senger, Nora Job, her agent

- A. Rhineberger – reviewed the 1.4 acre lot that has a significant wetland area. The property has been sold and a new sewer system is required. A sewer design was submitted and a 5’ setback is needed from two property lines to fit in a Type I system. Environmental Health defer to the licensed designer’s recommendation. Town Board approves. Two responses from neighbors do not support the variance. See concerns on written responses on file. A concern about soil contamination and impact to trees on their property and decrease of their property values were mentioned.
- B. Quiggle asked if either concern is legitimate? Rhineberger stated that is for the Board to decide. Rhineberger – explained the treatment area and area below where water will move. The treatment area would not go on the neighbor’s property, however, their are variables that are unknown. The setback requirement is 10’. Designers have worked around trees for decades and installers work around them and don’t damage trees.
- C. Senger – this system is below ground and set back. The one owner who refers to trees has a large amount of brush adjacent and there is quite a distance between this and where he uses the property. The back of this development is heavily wooded. Where the sewer is going there is no trees or very close. Rhineberger reviewed the location of the pressurized bed. There is some soil to be added, but not as much as a mound system.
- D. Senger – if this cannot be approved a new sewer cannot go in and the property will not sell. She cannot afford a \$20,000 above-ground system and this will be a site with a non-conforming system. She would like to take care of this.
- E. Job – summarized the treatment of the water that comes out of the house. Rhineberger – this type of system does not pre-treat the water leaving the house. If this is not approved, it might involve relocating the well and keep this more roadside; or a Type III system, removing the existing soils and build it over the existing site. This is the only location for a Type I.
- F. Aarestad would not have an objection; but asked about the number of tanks. Rhineberger stated the tank that takes the solids out and is pumped. There may be more than one. Jones stated he has no objection to the variance. Schermann has no objection.
- G. Mol – asked if they could not move it 5’ further back, looking at where the three tanks are on the plan and where the filtration is. Rhineberger felt it may be based on the soils found

and terrain. Senger stated it is the elevation change. Her designer, S. P. Testing came out and looked at everything. Where the system is there is only 18” between the water table and this is the only location that would work with where the water table is and based on the soil type.

- H. Rhineberger stated Environmental Health indicated they would defer to the designer. Quiggle would agree with that.
- I. Mol moved to grant a variance of Section 502.2 & 716.3 Table 3 of the Wright County Zoning Ordinance to allow a “Type 1” septic system to be installed 5’ from the south and east property lines. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

10. **DIANE C. HARMS** – New Item

LOCATION: 12196 Hart Avenue NW – Tract B, Registered Land Survey No. 31, Section 35, Township 122, Range 27, Wright County, Minnesota. (Sugar Lake – Clearwater Twp.) Tax #204-137-000020

Requests a variance of Section 502.2 & 605.5(2) of the Wright County Zoning Ordinance to allow construction of a 16' x 20' addition to detached garage. Proposed addition to be 45 ft. from the centerline of a township road.

Present: Diane Harms & Dan Kotzenmacher

- A. Rhineberger reviewed the detached garage, existing garage is 65' setback and the addition is an encroachment. Addition to the garage is similar in appearance as to what exists. Original request was for a 25' addition and the Town Board requested a reduction of 5' which they complied with.
- B. Jones asked if there is any other way to expand the garage. D. Harms pointed out where the sewer is. Rhineberger displayed the site plan and stated the tanks are between the house and garage and the treatment area is across the road. Jones – he does not like to see encroachment on the road, but in this case the Town Board approves.
- C. Quiggle drives this road often and the space is tight, but since the Town Board has approved, she could go along with it.
- D. Mol – (also Town Board member) explained the improvement to the road and the applicant has agreed to cut it back to get 15' off the road.
- E. Aarestad – the Town Board weighs in on these requests, so he would support this.
- F. Quiggle moved to grant a variance of Section 502.2 & 605.5(2) of the Wright County Zoning Ordinance to allow construction of a 16' x 20' addition to detached garage. Proposed addition to be 45 ft. from the centerline of a township road. Reason: The Township that maintains the road has no objection. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

11. **CLIFFORD H. DUSKE** – New Item

LOCATION: 4957 Crofoot Avenue SW – S ½ of SW ¼, Section 27, Township 119, Range 26, Wright County, Minnesota, except tract described in Book 324 of Deeds, page 146. (Marysville Twp.) Tax #211-000-273400

Requests a variance of Section 502.2 & 604.6(4) of the Wright County Zoning Ordinance to allow a division of the existing farmstead on approximately 9.5 acres with less than 300 ft. wide on a public road.

Present: Clifford and Wendy Duske

- A. Rhineberger reviewed the 79.7 acre farm. The division of the existing farmstead was outlined which will be 9.6 acres. The old division sold off the second entitlement and location prevents them from meeting the 300' wide on the road for the farmland. Another issue that has come up since, is an existing cell tower on the farmland. This requires an "entitlement". A hearing is requested before the Planning Commission to move an "entitlement" to allow the cell tower and would allow another house there in the future. The Board has the option of placing a condition the transfer is approved; or continue for the outcome of the Planning Commission. Town Board approval was received.
- B. Duske – the property will eventually be rejoined. They need the division at this time.
- C. Aarestad would concur with the division subject to a condition the Planning Commission approves the transfer. Jones, Mol and Quiggle agree.
- D. Aarestad moved to grant a variance of Section 502.2 & 604.6(4) of the Wright County Zoning Ordinance to allow a division of the existing farmstead on approximately 9.5 acres with less than 300 ft. wide on a public road. Subject to the Planning Commission approving the transfer of an "entitlement" prior to the sale of the farmstead; and a Deed Restriction to be filed. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

**MINUTES**

On a motion by Mol, seconded by Aarestad, all voted to approve the minutes for the May 6, 2016 meeting as printed.

Meeting adjourned at 11:15 a.m.

Respectfully submitted,

Barry J. Rhineberger  
Planner

BJR:tp

Cc: Board of Adjustment/County Board/Kryzer/Twp. Clerk/Applicants