

# WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: September 2, 2016

## MINUTES – (Informational)

The Wright County Board of Adjustment met September 2, 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; Greg Kryzer, Assistant County Attorney, was present until 9:00 a.m.

1. **MARK D. OLSON** – New Item

LOCATION: 234 Gillard Avenue SE – Lot 19, Charlotte Acres, according to plat of record, Section 6, Township 119, Range 24, Wright County, Minnesota. (Lake Charlotte - Rockford Twp.) Tax #215-012-000190

Requests a variance of Section 155.008(B)(1), 155.049(F)(2)(a), 155.057 (E)(1)(b) of the Wright County Code of Ordinances to build a 564 sq. ft. attached-garage 50.7 ft. from the centerline of a township road and 72 ft. from the Ordinary High-water Mark of lake.

Present: Mark Olson

- A. Rhineberger displayed the location map and survey of the lot on Lake Charlotte. The lot is a combination of three parcels. The variance requested is to allow an attached garage addition on the north side of the building that is 40' from the lake. The attached garage would be built 72' from the lake and 50.7' from the centerline of road, but further from the travelled portion. Plans to show the proposed garage, existing structure with garage was viewed. Pictures taken to show the orientation of the building in relation to the lakeshore were displayed. Written favorable responses were received from the Town Board and two neighbors.
- B. Olson explained the purpose is to provide additional storage.
- C. Jones –the only question he would have is where the runoff from the garage roof is going. Rhineberger explained the house is on a knoll and depending on the direction of the new roof, he would assume it would be directed toward the north and lakeside. The house has a hip-roof and water now runs off in three directions. Jones asked Olson what he could do to address runoff? Olson indicated adding gutters and directing the water to the north is an option. Rhineberger or direct it west. The new construction is 72' from the lake providing more distance for water to dissipate before reaching the lake. On this lot there is no place to collect the water, which will eventually end up in the lake, The best they can do is lengthen the area to infiltrate the water before it gets there. Jones felt if gutters are installed and the water is directed to the north, he would agree, noting the Town Board approves.
- D. Aarestad agreed gutters would help and slow the water down.
- E. Quiggle pointed out the existing structure is in the shoreland impact zone at only 31' from the lake. Understands the applicant was not the original owner and the addition is 72' from the lake; however, the garage addition brings the total building area to 3,300 sq. ft. in the shoreland impact zone and within the lake setback. The concern is the replacement statute

allows exact replacement. Understand the applicant had looked at building a detached structure. Olson indicated he had and felt this fit into the eligibility best. Quiggle – noted a number of other structures along here are almost in the road right-of-way. Rhineberger, noted there are houses in the road right-of-way. Quiggle - it appears the Town Board does not have a concern. She questioned the ordinary high-water mark of the lake and where it cuts into the northern quadrant. Rhineberger stated the survey marks that and adjusts the lot size accordingly. 38,005 sq. ft. is the size lot.

- F. Mol – stated he would agree with the proposal as long as gutters are installed and they can increase infiltration. Whether it is attached or not, there is more roof area.
- G. Schermann would agree. Quiggle asked if they should not request a storm-water management plan.
- H. Aarestad moved to grant a variance of Section 155.008(B)(1), 155.049(F)(2)(a), 155.057 (E)(1)(b) of the Wright County Code of Ordinances to build a 564 sq. ft. attached-garage 50.7 ft. from the centerline of a township road and 72 ft. from the Ordinary High-water Mark of lake. Condition: Storm-water management plan be submitted and gutters installed. Jones seconded the motion.

*DISCUSSION: Rhineberger for clarification asked if the motion requires the applicant to address all the water on the lot or just what is coming off the garage. Aarestad – his intention is to address the water coming off the entire structure.*

VOTE: CARRIED, Quiggle voted nay

2. **TIMOTHY E. DICKINSON** – New Item

LOCATION: 15925 – Gowan Avenue NW – Part of Gov't Lot 3, Section 18, Township 122, Range 26, Wright County, Minnesota. (Fish Lake – Clearwater Twp.) Tax #204-000-182203

Requests a variance of Section 155.026 & 155.050 (F)(3) of the Wright County Code of Ordinances to build a 10' x 10' covered entry 20' from the side property line.

Present: Tim Dickinson & Mary Otto

- A. Rhineberger reviewed the 2-acre lot that is zoned R-2. Existing structure is right at the 30' setback from the property line. Two platted road right-of-ways are on either end and there is a road that straddles the lot. A roof over a door (on pillars) and not enclosed is proposed. The existing property line is 30' but there is another 30' before you get to the road or road ditch. Applicant has the option of trying to vacate the road right-of-way, but it is platted and there is a process to do that.
- B. Mol – also a member of the Town Board – reported the history of the roads. The tarred road was old CR 75 and was turned back to the township. Another road pointed to was vacated, but this part of the road would have to be petitioned by the owner and would require much time, surveys and involves another owner for a triangular portion. This is just a roof over the step and wondered for the project whether that is reasonable.
- C. Aarestad – no objection. Quiggle –agreed to the variance due to the inefficiency of trying to get the road vacated.
- D. Jones and Schermann added their approval.
- E. Mol moved to approve a variance of Section 155.026 & 155.050 (F)(3) of the Wright County Code of Ordinances to build a 10' x 10' covered entry 20' from the side property line. Quiggle seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **SANDRA J. FEHN** – New Item

LOCATION: 3525 Quinlar Avenue NW – SW ¼ of NE ¼, Section 17, Township 120, Range 28, Wright County, Minnesota. (French Lake Twp.) Tax #209-000-171400

Requests a variance of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to allow a division of the existing 40-acre farmstead into two parcels, approximately 5 acres with the existing homestead and 35 acres remaining that will be restricted. Both parcels to have less than 300 ft. of road frontage.

Present: Sandra & Randy Fehn

- A. Rhineberger displayed the air photo of the 39 acres and the location of where the road ends. The Staff looked at where the road right-of-way description shows the road ends and also pointed to the where the traveled road is outside of that legal description. It also appears the Township continues into the property and built a turn-around on the applicant's property for plows and buses to turn around. The site plan shows a division that does not meet the 300' wide on the road and extends the property out to what is described as the dedicated road. Rhineberger explained a Court case that determined these old legal descriptions on the Town road maps are not legal and unconstitutional because they were a "taking" of land. Therefore, it goes back to whether the physical road has been maintained a minimum of six years; if so, the road is a town road. He understands the applicant met with the Township, however, has not received their recommendation. After this finding, the Town Board could address the use of the road and turn around and the owner would not have to adjust the survey. The applicant would still need a variance of the 300' width requirement; and, using the map pointed to where access is.
- B. Kryzer explained the history when Townships adopted road maps in the 1980's, and is what the Staff have used to determine the dedicated road right-of-way, which were a description of 33' out from centerline for a total of 66' in width. The Court defined it as the road and ditches over area they maintained. The maps themselves are not unconstitutional, but that they could not go out 33'. Here there is a turn around and looks like it has been used, and felt the Board would need clarification from the Township in this case. Schermann asked if the Board can address the division before they hear from the Town Board. Rhineberger noted the Board could allow it one way or the other. If the Township states that is how they use it; if not, the legal description can be adjusted to match the proposed site plan. Town Board had given approval of the division, but need to address the road they are using.
- C. R. Fehn – if the Township were to follow the hill it would not be feasible to extend the driveway down to the dedicated right-of-way because of the topography. Rhineberger – if the township uses that drive up into their property with a turn around there is no need to. R. Fehn – explained historically in the early 1980's the Township came in there and they used to have to walk half mile to the county road to get the school bus. They owned adjacent land and they had paid the township to extend the road in and build the turn around.

- D. Aarestad – appears that the Town Board will be able to demonstrate that they have used this road and restricted parcel is being farmed and proposed access is reasonable.
- E. Quiggle – no problem with the way the land is situated. The restricted land would have adequate access with 33’.
- F. Mol – his understanding is if they have been using the road, it is a town road. He has no objection.
- G. Jones & Schermann agreed with those statements.
- H. Quiggle moved to grant a variance of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to allow a division of the existing 40-acre farmstead into two parcels, approximately 5 acres with the existing homestead and 35 acres remaining that will be restricted. Neither parcels will have 300’ of road frontage. Condition: Determination on the property access to the dedicated town road, to be received from the Town Board where the public road location is and submitted to the Zoning Administrator. Mol seconded the motion.

*DISCUSSION: S. Fehn – stated she had presented the 33’ access to the Town Board so that is what they might respond to favorably. Rhineberger suggested they will need to meet with the Town Board on the road right-of-way. Otherwise, they can split according to Plan “A” or “B”, it would be less costly if they do not have to resurvey.*

**VOTE: CARRIED UNANIMOUSLY**

4. **ZION LUTHERAN CHURCH** – New Item

LOCATION: 220 State Hwy. 25 NE – Gov't Lot 1, except part to highway, Section 32, Township 120, Range 25, Wright County, Minnesota. (Lake Mary-Buffalo Twp.)  
Tax #202-000-323300

Requests a variance of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to allow a division of the existing 30 acre parcel into two 15 acre parcels. The entitlement to be assigned to the southern 15 acres, which will be sold to Burgdorf, the remainder to be kept with the adjacent Church property to the north.

Present: Pastor Ted Vanderpan, Dave Tauscher, Dr. Andrew Burgdorf and Sherilyn Burgdorf

- A. Rhineberger displayed the map and survey to show the 30 acre parcel purchased by the Church. The proposal is to split off the entitlement with the south 15 acres and the balance would be restricted and kept with the Church property directly north. This is before the Board because the division is over 2.5 acres of tillable and is an equal split between adjacent owners. Town Board favorable response and a neighbor had concerns about future development such as town houses. Rhineberger noted that kind of development would take annexation.
- B. Dr. Burgdorf - they own the 43 acres to the south and have been farming it the last 25 years, planting prairie grasses and trees to preserve it for future generations. Their purchase will also facilitate 15 acres for the activities and good the Church does for the community.
- C. Quiggle – usually the Board has concerns about a division over 2.5 acres tillable, however it is going to a farm. Exceeding ten acres was questioned since the plan is to have one parcel for the Burgdorf family. Could the property line be dissolved so a future division for the entitlement in the future could meet the Ordinance? Rhineberger questioned whether they could transfer the entitlement to a separate parcel. Mol questioned why they would need to. Rhineberger – a deed restriction would be filed saying we are designating the entitlement to the 15 acres. Also, this cannot be combined because the Burgdorf farm is in the City. The parcel in question is still in the Township and “entitlement” cannot be transferred to City.
- D. Mol – noted the City surrounds this parcel, adding 15 acres to the church will allow their activities and keep the rest with the farm is acceptable. Jones & Aarestad agree with Mol.
- E. Aarestad move to approve a variance of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to allow a division of the existing 30 acre parcel into two 15 acre parcels. The entitlement to be assigned to the southern 15 acres, which will be sold to Burgdorf, the remainder to be kept with the adjacent Church property to the north. Mol seconded the motion.

*DISCUSSION: Rhineberger stated action should include the standard condition: Subject to Deed Restriction and soils tests to prove up the residential building site.*

Aarestad amended his motion to include the condition: Subject to Deed Restriction and soils tests to prove up the residential building site. Mol amended his second.

VOTE: CARRIED UNANIMOUSLY

5. **DAVID J. BRYANT** – New Item

LOCATION: 5599 County Road 12 N – Part of the SE ¼, Section 36, Township 121, Range 26; Part of Gov't Lots 1 & 2, Section 1, Township 120, Range 26, Wright County, Minnesota. (Maple Lake Twp.) Tax #210-100-364100; 210-000-011100; 210-000-011400 & 210-000-011101 Property owners: Bryant & Pederson

Requests a lot line adjustment of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to combine a parcel owned by Bryant, tax parcel #210-000-011101 with the existing shed to their homestead parcel to the south, #210-000-011400 and the “entitlement” for that parcel to be transferred to Bryant’s tax parcel #210-000-011100 (formerly the Nola Bryant homestead parcel). If approved, a division of 210-000-011100 of approximately 8 acres with this “entitlement” is to be sold to the property owner to the north, Pederson (tax #210-100-364100).

Present: David & Jeanne Bryant

- A. Rhineberger outlined the parcels involved in the two-part request. A 6.5 acre lot which never went through a deed restriction process; but based on the dates it was created considered a lot of record with an “entitlement” has an existing garage used with the applicant’s adjacent homesite. The property lines for that lot are to be dissolved and the “entitlement” put back into the farm (parcel adjoins to the north). If the first part of the request is approved, the proposal is to sell the adjoining owner, Pederson, eight acres with this “entitlement”. Pederson farm has a large amount of road frontage on two county roads where the “entitlement” division could be used. Town Board approved, but their comments were referred to. The Town Board felt the “entitlement” should be used on the acreage, adjusted to ten acres that Pederson is purchasing and include an access strip to CR 12, noting that portion is wooded and not tillable land. Rhineberger explained this could be an administrative “entitlement” division on an access strip, if the Board moves the entitlement back on the farm. But if done that way, could not be transferred on the Pederson farm. A written response from Tom Neumann states they would like to see a minimum ten-acre lot and the “entitlement” used on the parcel in the purchase.
- B. Mol – questioned why the Town Board would want it on a lot with an access strip. He would not want to go against the Township. He felt they could let the owner decide if they want to use it back there on a strip or use it up near a road on the corner. Rhineberger – was not certain, but they might have thought it should be used on the 8-10 acres because it is non-tillable where much of the Pederson farm is tillable. Mol – felt the requirements limit what can be done. Asked what Bryant wanted. D. Bryant – did not know the specific reason other than they wanted the access on the Bryant side. He noted his side of the property has rocks throw in and trees that have grown up along there. The other side has been pasture land which kept the trees down and back from the fence line. Rhineberger noted that location might involve moving the fence. Mol – adding eight acres and the entitlement should give the owner options on where to use it. Without a Township member present, he is unsure the reason for the recommendation.
- C. Rhineberger – stated if the Board wants to approve the eight acres and transfer entitlement they can approve as presented by the applicant. Pederson could decide to use it where he

wants to. Otherwise, the division as suggested by the Town Board can be done without Board action. If approved as submitted, Pederson could still extend an access strip out from this 8-10 acres on the property he owns.

- D. Schermann felt they need to consider the petition presented to the Board and would not want to restrict the buyer on where he can use it.
- E. Jones – stated he would agree with the proposal before them. Otherwise, the strip suggested would be an expensive project to dig out the rock and remove trees to get in there.
- F. Rhineberger – in essence the Town Board has denied that portion of the request.
- G. Aarestad –if the applicant had strong objections to what the Town Board has suggested, he would support the request as submitted. D. Bryant assuming the Township wanted the access on his side of the property. Rhineberger noted if the Board approves the request as petitioned, the two owners can talk and they still have that option because they can do that without Board approval; and the lot can be sold to whoever they want, it does not have to be sold to Pederson. He explained how the application changed when it was realized that Pederson would be willing to buy the entitlement.
- H. Quiggle is a strong Township supporter, however, there is no explanation on why they are suggesting the change. She also supports the rights of the property owner and would go along with the request.
- I. Rhineberger – if the Board were not in agreement with the proposal he would suggest the Board deny that portion of the request.
- J. Mol moved to approve a lot line adjustment of Section 155.026 & 155.048(G)(4)(c) of the Wright County Code of Ordinances to combine a parcel owned by Bryant, tax parcel #210-000-011101 with the existing shed to their homestead parcel to the south, #210-000-011400 and the “entitlement” for that parcel to be transferred to Bryant’s tax parcel #210-000-011100 (formerly the Nola Bryant homestead parcel). If approved, a division of 210-000-011100 of approximately 8 acres with this “entitlement” is to be sold to the property owner to the north, Pederson (tax #210-100-364100). Subject to survey, Deed Restriction and Administrative Orders to be signed by property owners. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

**MINUTES**

On a motion by Aarestad, seconded by Quiggle all approved the minutes for the August 5, 2016 meeting as printed.

Meeting adjourned at 9:30 a.m.

Respectfully submitted,

Barry J. Rhineberger  
Planner

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