

# WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: March 2, 2018

## MINUTES – (Informational)

The Wright County Board of Adjustment met March 2, 2018 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, John Jones, called the meeting to order with all Board members present. Barry Rhineberger, Planner, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

### MINUTES

On a motion by Aarestad, seconded by Quiggle, all voted to approve the minutes for the January 5, 2018 meeting as printed.

#### 1. BRIAN A. JOVAN – New Item

LOCATION: 3394 Edmonson Avenue NE – Part of the N ½ of the SW ¼ Section 13, Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-133202 & -133204

Requests a variance of Section 152.027(A) 155.028 Chapter 152 & 155.026 Chapter 155 of, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow construction of a 40' x 72' (3018 sq. ft.) building that will house horses, 55 ft. from the side property line and 112 ft. from a designated wetland.

Present: Brian Jovan

- A. Rhineberger displayed the location maps and site plan to show the proposed location of a 40' x 72' building, a portion to be used for horses. The proposed setback variances requested are 55' from the west line and 112' from the wetland complex. This is not a Shoreland district, but designated a public wetland. If the building were just for storage, there would not be a setback from a wetland; however, because there will be animals in it, Feedlot Regulations require a minimum setback of 300'. Also needed is a setback variance from the 100' required from a neighbor's property line. Rhineberger explained with a lake they have an ordinary high-water mark to measure from, but that is not the case with wetlands. He pointed out the wetlands on the map and explained it is not just whether there is water, but the wetland designation also includes the character of the soils and type of vegetation. This property does not fall in the Pelican Lake Shoreland district. The lake location was pointed out. The elevation of the lake is being lowered and may impact the designation of public wetlands in the area. The applicant is proposing five horse stalls in the proposed building and there are limitations with this property. Town Board recommendation was for approval. Olson, neighbor, objects noting there should be room to meet the setback and the rules are in place for a reason. R. Mathisen – also expressed opposition, the request is three times closer than required; noting the importance of protecting the wetlands and the nesting loons. Noting his efforts, and those of inter-government agencies to improve and restore wetlands in the area. Mr. & Mrs. Ernst wrote

about their concerns of impact to wetlands and waterfowl and had questions on the setbacks from barn yard. See written responses held on file.

- B. Jovan explained his reason for the proposed location is there is a lot of elevation change and noted where 300' from the wetland would put the building which is a steep hill he is trying to avoid. He noted some of the drain tiles have been taken out of the neighbor's property and that has brought up the water in the pond. There are 2-3' of water back in the wooded area. This location provides a level spot and avoids moving a lot of dirt. The neighbor, agrees with the 55' setback and has no objection to horses near his line. He submitted the neighbor's written statement. The reason they bought the property was to have horses here. Years ago it was a pasture for cattle and they have been preparing the site for horses. His wife now has a horse and wants to bring it home and daughters each want a horse.
- C. Tracy Janikula – Feedlot Administrator – came before the Board and explained they looked at moving the building further away from the wetland, but it would be a long distance from the house to get water there. The alternate location has a waterway between. They will need to work closely with her to make sure they handle manure properly. There will have to be some landscaping to get the water that comes down the hill around the barn. They went between the two wetlands and picked a flat spot. The building has five stalls, tack and feed storage, not a riding arena and is not over-sized. The amount of high ground, if maintained for pasture, could support five horses, but four might be better. The number of animals is up to the Board, the acreage allows the number.
- D. Mol – expressed concerns on management and how to keep the manure from infiltrating. The AG industry is fighting additional regulations regards to nitrates and regulations are getting tougher. These owners are asking for five horses to start with, but then often owners start adding a couple steers, chickens, etc. He understands how hard it is to keep grass growing where animals congregate. He would agree the proposed location would make it easier to get water here; but, going to another location might be better and improve the buffer. He is concerned with the future. Janikula- agreed, management will be important. Addressed the manure storage part and when cleaning the barn is suggesting a permanent manure storage that does not allow runoff. The fencing and rotating the animals is critical to make sure it is not mud. Rhineberger – could be grazed down between the building and wetland complex, felt the 100' is something they can work with. Janikula – they are doing runoff evaluations and depends on the rotation. With fencing primarily on the east side and if he rotates properly, he should be able to manage it. She felt a 100' is a little shy, but usually working with 20-40 steers and wet manure which is different. Directing water the right way is key.
- E. Jones – understands the issues, he has five horses and there is a considerable amount of manure, do not see any farm field on this property. Jovan – plans to dispose of it in a composting site on the back part (East side) of the property. He has space for five horses, owns one to bring home at this time; but wants three horses. Plans show five stall locations but did not know they would use them for that. After they started lowering Pelican Lake, there has not been any water in there except for spring time. There is grass, no cattails. The higher pond has come down substantially and they gained 2-3' of shoreline since Pelican

was drawn down and expect it will go down further. The water he sees is 250' away from what he thought would be wetland. Jones asked if he has talked with the DNR, did not think the Board could change this. Jovan – no, but did not think there is anywhere on the property that can get the building 300' from wetlands. He pointed to another location of a pond that is deeper now because of removal of drain tiles. The wetland on his property is now grass.

- F. Kryzer asked if there has been a wetland delineation done? Rhineberger – no, he is using air photos. He has been in discussions with SWCD and the drawdown of Pelican could affect this. Kryzer – noted if there is water there two weeks, it is a wetland. He suggested the applicant could do a delineation with SWCD and if it is not a wetland anymore, there would not be the setback requirement. Janikula – might be pre-emptive at this time with Pelican Lake.
- G. Vick – has not formed a position, was waiting to see what Janikula had to say. He is not ready to vote on this considering the wetlands and not having a plan to address the concerns.
- H. Aarestad – is concerned the proposal does not even meet the setback requirements half-way. This use may not be the best for this property. Concerns include the drainage, wetlands, runoff and if it can be managed, but they have not seen a plan. Considering the wetlands as they exist, he could not approve the variances as requested.
- I. Quiggle – asked if this is in the Resource Area in the Land Use Plan for the Pelican Lake area. Rhineberger – stated this property is not in that designation. No plans for wetland protection or a buffer and only a third of the setback from what is minimum. She would also want to see a manure management plan before giving this any consideration. Rhineberger displayed the Land Use Plan to show the Resource Land boundary and the Shoreland district of Pelican.
- J. Mol – there are many regulations to consider. A 200-250' from a wetland and a 75' from a line he might support. He expressed his concern for future use and additional livestock a future owner might want at this site. They have to draw on their experience on the Board and history and consider conflicts as the area develops or new owners move in. The Board tries to meet the Ordinance as closely as possible. A 112' setback is too close, the location, size of building and large rains with runoff concern him. He works in livestock and knows the problems that can develop. He has real concerns with the proposed setbacks.
- K. Rhineberger – this provides the flattest spot and moving 20-30', using the lowest line that rings that area, there is 330' to the back property line. Further back the building is moved, even 20-30', it is more likely they will need another variance.
- L. Mol – 220-250' from the wetland and a 75' from the property line it would be easier to justify. The Board does not design these, but an alternative to the structure design is poured walls and move it back into the hill. Jovan – these are big hills, he is trying to avoid major alteration. The reason for buying this house and property with the acreage, was to bring their horse here. He is not against working with Janikula to manage manure. Been working a long time to come up with the best plan. No problem building a berm in between the

wetland and building, even before the building is constructed. Moving it to any other location will be difficult, or requires moving a tremendous amount of earth. This location was a pasture that had animals on it for many years. In working with Janikula, they talked about manure management, have permanent composting sites in an area where it would not run into water. That would be on the east side of the property. They are conscious of the environmental concerns. He did not think the building location would harm it and is quite a distance from the water, although there is water during the spring.

- M. Jones – the Board is sympathetic, but have an obligation to uphold the Ordinance that requires 300'. With other applications, they have had some applicants that have worked on alternate plans. Suggested working with DNR. Rhineberger and Kryzer – stated it would be SWCD in this case. Jones – the question is they are lowering the water level, but would it come back up. Quiggle – a couple of flooding rain events could change that. Rhineberger – they have an option to continue for a delineation. SWCD can do the assessment, but not this time of year, could take some time. Kryzer – would want SWCD to review any berm proposed. Rhineberger – putting animals in the building brings in additional issues.
- N. Ashley Jovan – asked what if they put up a lean-to and the fencing, would she be allowed to do that. Rhineberger – any building that can have animals requires the same setback.
- O. Vick – agreed with Mol they might consider putting the structure into the hill using the dirt to build the berm. Rhineberger – like a walkout basement, the excavation is quite small.
- P. B. Jovan – mowing much of this, the grass protects the wetlands and felt it seems counter-intuitive. Town Board discussed the concerns and they approved. Driving around the Township he sees steers standing in the water, where here he would be keeping the horses 100' away. Does not want to see the ponds disappear, lowering Pelican Lake has changed the quality of them. Moved into the country to have horses. He could pasture horses here as long as there is no building. He is proposing a plan that would prevent waste getting into the water, no plans to have other animals. The neighbor has agreed to the setback from his property. He tried to keep it away from the actual water, this is grass that he mows. Kryzer – felt if the applicant does not think it is wetland than they need a delineation.
- Q. Jones –a wetland delineation could change the information they have before them. The numbers, the building and wetland are the issues. The Board consensus has been they would not agree to the proposal and want to see how it can be improved. They want to see a plan on how he is going to solve the problems with the land. B. Jovan – he did much research considering the pond to the west, another to the east and a pond in the middle. There is not a better location. Jones – the land is not an ideal place to bring horses. Although does not know the applicant's background, some members on the Board have grown up in agricultural and with animals. Aarestad – the Board is willing to look at something else. They have to maintain a certain standard because of future requests. The plan before them is not going to work but encouraged him to go back and see what can be improved. Mol – explained how tucking the building back into hill might improve the setback. Not suggesting it has to be 300', find out where the wetland boundary is and

whether berms have to be built. Trying to work with the applicant, but they have to look at future uses. Quiggle – also consider down-sizing the building to three-stalls.

- R. Rhineberger –using the best available information, air photos going back 13 years show this area is wet. If the applicant can have it determined and the wetland boundary changes, they can look at that. At this time it is hard to say. B. Jovan – if he can get to 250' is that something the Board would accept. Rhineberger – still need to know what else is proposed for berms. Everything drains to one or two wetlands. Quiggle noted this may not be the best site for horses. Rhineberger noted although it is not impossible.
- S. Mol moved to continue the hearing to May 4, 2018 to allow the applicant time to develop plans and contact SWCD for a wetland delineation. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **JOHN A. STICH** – New Item

LOCATION: 7499 Nevens Circle NW – Unit #4, Condominium Number 12, Lake John Condominiums, Section 26, Township 121, Range 28, Wright County, Minnesota. (Lake John–Southside Twp.) Tax #217-072-000040 Property owner: Aeshliman

Requests a variance of Section 155.026, 155.049, 155.057 & 155.059 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow construction of a 6' x 7.25' roadside bathroom addition to existing cabin to be 4.4 ft. from the north property line and 11 ft. from the edge of a private road. Also allow conversion of an existing 12' x 16' open deck on the lakeside into a hard roofed screen porch 19.4 ft. from the Ordinary High-water mark of lake and 11 ft. from the side property line. Also proposed is to convert an existing 8' x 12.5' open deck lakeside of an existing shed/bunkhouse into a hard roofed screen porch that is 20.5 ft. from the Ordinary High-water mark and on the property line; and convert an existing 8' x 12.5' covered patio into a living space addition that is on the property line and 11 ft. from a private road. Proposed lot coverage by buildings on that portion of the lot lakeside of the road surface to increase from 20% to 30%; and proposed impervious coverage to increase from 35% to 36.4%.

Present: John Stich

- A. Rhineberger displayed the location of the property on Lake John. Lot is about 8,132 sq. ft. and part of a 1994 resort conversion, Planned Unit Development plat. Restrictions were placed on the plat when approved that limit construction and further development. Plans were displayed to show the proposed improvements to the cabin and a second building that was converted to a “bunkhouse”. Photos of the property and buildings that were taken by the County Assessor were viewed. The expansion includes a 6' x 7.25' bathroom expansion toward the road; a 12' x 16' screen porch, not to have walls or windows, just screens over an existing deck lakeside, 19.4' from the ordinary high-water mark of lake, 4.4' from side line and 11' from travelled road. The building referred to as the “bunkhouse” is located right on the property line and the proposal is to build an 8' x 12' screen porch lakeside over an open deck and an 8.5 x 12' addition over a covered patio on the roadside. Setbacks of that structure are 11' from traveled road, 0' from side line and 20.5' from the ordinary high-water mark of lake. Porches are going over existing decks. A picture shows the bathroom addition fills in a nook. The “bunkhouse” was an illegal conversion and Staff are uncertain exactly how it is used. When the property was platted that building was noted as a storage building and has never been permitted or approved for living space of any kind. The road is platted. The impervious and building coverages were calculated and the area under roof is going from 20% to 30% coverage. The bathroom addition is the only thing that is adding to the impervious coverage. Town Board recommendation was favorable on the condition the screen porch is reduced to 10' as required by the conditions on the plat approval in 1994. Town Board did not approve the additions to the bunkhouse.
- B. Quiggle – maximum ground coverage is 400 sq. ft. and does that include a screen porch. Rhineberger – although the plat condition did not specify it, he would include that in the calculation. Once enclosed it is part of the living space. Quiggle – the maximum limits

were questioned. Rhineberger – the previous variance did not expire because of when it was approved.

- C. Stich – the bunkhouse was converted before the new owners. The previous owners had converted the storage building for a bed for sleeping quarters only. Rhineberger added, the current owner is the daughter of the previous owner. Stich – stated he explained to the owners looking at the condominium clause, that they would have to limit the expansion lakeside to 10' for the screen porch. That is what was discussed at the Town Board and they approved. The calculation on the impervious coverage would not be changed much, .10%. The shingles are bad on the structures and also a tree limb had fallen and put a hole in the roof of the cabin. Owners temporarily fixed it until they can put steel roofs on the structures. He has suggested they add gutters to divert the water coming off the steel roofs away from the lake. The buildings were constructed in the 1920 -1930's and sitting on cinder blocks. Only structure on a block footing, is the bunkhouse because it used to be an ice house. The other structures are on cinder blocks. They do not want to destroy the hill side and he is suggesting to get a good foundation they install sonotubes under the cabin. The location of the posts to support the roof was explained. As a contractor, he will not expand or change the structure other than what complies with ordinances and allowed by the condominium conditions. The new design of the bathroom will give the owner's son who is handicapped access to the bathroom. The buildings are only seasonal and water is shut off during the winter months. Rhineberger stated there are only two in the former resort that are year-around structures. Stich – the owners want to have more living area and allow a son that visits use of the bathroom.
- D. Aarestad – agreed the bathroom expansion seems reasonable, but could not support any expansion to the “bunkhouse”. Without the 1994 approval he would not support the porch over the deck; but because it exists and is part of the new footings proposed under the structure, he would support the screen deck if reduced to 10'.
- E. Quiggle would agree no revisions to the bunkhouse and it will have to be converted back to storage with no living space. The parcel is not 20,000 sq. ft. and not entitled to a guesthouse. The front screen porch if 10' meets the previous variance, with the condition they cannot have combination windows or membranes. She would not support any other expansion of patios. Vick asked about storm-water. Quiggle – stated this is all bluff. Stich – explained how he would direct water toward the building and put in a rock bed, direct water into the bushes to absorb and slow down some of the water, avoiding going directly to the lake. Quiggle would like the off-setting and decrease of impervious lot coverage. Rhineberger estimates 11.5 sq. ft. is the difference. If the Board requires a reduction, one of the walkways or patios would have to be reduced by that amount.
- F. Mol –the variance was granted in 1989; however, since he has been on the Board they have been very insistent that people reduce impervious coverage to 25%. This is still at 35% impervious in a very sensitive area. He asked if they might be better to remove the bunkhouse and redesign the house to better fit their needs. The changes in the same spot might be considered. This is all on cinder blocks now. He wondered if it would not be just as economical to remove and rebuild and bring it closer into compliance. He understands

the needs with a handicapped child. Stich – he has looked at the project from a construction standard, pull it off raise it up for good, solid foundation. The owner's response was that it is a lot of money. However, putting sonotubes in and other changes will take a lot of time. If the bathroom is redone, this is the time to do it. They could take this and put it on the same foundation. The owners are attached from a sentimental standpoint, and the husband felt the cost of replacement, they might as well buy a new place. Mol – this is an illegal bunkhouse, Board is looking at a situation where things were done illegally and structures are within the shore impact zone. They are putting money into a bad situation.

- G. Rhineberger – difference between this and other lots reviewed by the Board, is the existing resort conversion condominium. Even pre-dating that there were blanket variances given because of the old resort status. These were treated differently. Quiggle – was the deck on the bunkhouse pre-existing. Rhineberger – the building was there as well as the patios and were told in the past they could not enclose them. Stich – previous owner had tried to enclose the porch and put walls in and they got “busted”, did not follow code or pull permits and were required to take that off. He would not agree to build anything that would set it up for anything but screens and so windows cannot be installed later. He advised the owners to follow the conditions; and if that does not fit their needs, look for another place.
- H. Jones asked the use. Stich – asked if the fact the ownership changed would it change the non-conformance. Rhineberger – it is not based on ownership but the use. Vick stated he would be opposed to the bunkhouse, but would like to see a metal roof. Stich concurred a new roof is needed to maintain the property. The primary concern is the roof replacements, expand the bathroom and screened area on the front deck. Vick – would require the gutters, agree to the screen porch if reduced to 10' and expansion of the bathroom.
- I. Mol issue he would come back to is what are they going to do about the impervious coverage. They have required cabins to move back; and as Quiggle has said in the past, once they start replacing these cabins it is the time to move them back. Quiggle added, the Ordinance states when variances or building permits are given they are supposed to address impervious coverage regardless of “grandfathering”. Mol – he is not ready to vote no; but if they could go back and talk to the owners. Stich – he has seen a lot of strange things owners have been done. Owners could bring in an RV, a structure that might not move. Quiggle noted there are Ordinances on that too. Stich – that is something that they said is temporary and becomes a policing problem, other problems that could be amplified. Mol asked if they can put a condition that they cannot park an RV on a lot this tight. Rhineberger – by definition and setback requirements it is not permitted on this lot.
- J. Rhineberger – if the Board requires that the impervious coverage is met, they could keep the cabin with additions, bunkhouse as it is. They are allowed about 840 sq. ft. of impervious surface coverage, 504 sq. ft. under roof. The main cabin with the screen porch is 540 sq. ft., which is over the 15%. Reviewed what could be removed to meet it, steps to lake and decks between the two structures; and other options were noted.



- K. Aarestad – would agree with Mol’s comments. If there is a good case this might be it, where enough is enough and they can no longer make adjustments. Either they meet the 25% or they have to tear down and rebuild. Mol –had a project last month before the Board that was too much. The owners had to go back and redesign and improve setbacks. Not sure he has seen a proposal with this much.
- L. Rhineberger the previous variances were reviewed, by the nature of these properties they were allowed these things. Quiggle – cannot cover the property with a patio. Rhineberger – those reviews in the past were looked at differently; over time, the Board’s approach to these situations have changed.
- M. Aarestad –they have looked at how they can improve the situation. Mol – the applicant can go back to the owners and report that they can no longer use the storage building as a bunkhouse or for sleeping quarters if they keep it. That could change the owners’ opinion on what they want to do. Stich noted one of the owners has an emotional attachment to the property. He will relay what the Board has said they have to do. He understands the Board is willing to expand the bathroom addition and the screen porch on the lakeside of cabin. The maintenance items, steel roof and gutters would be completed. He would agree to come back in a month after he reports the Board’s direction. Would have to come down 10%. Rhineberger – they can keep the structures; he is using 3,363 sq. ft. for the approximate land area, for his calculations.
- N. Vick – his concern is if they could put plexi-glass in the porch area and use that for sleeping. Stich – in how it is constructed would prevent someone from closing it in.
- O. Mol moved to continue the hearing to April 6, 2018 for the applicant to work with the property owner on the modifications and plans to better bring the property into compliance. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

**DISCUSSION:**

Kryzer informed the Board of a court case regarding a previous hearing involving Grimlie. A summons was not served properly and the Court found they were beyond the thirty days to serve the County and the case was dismissed.

Meeting was adjourned at 10:10 a.m.

Respectfully submitted,

Barry J. Rhineberger  
Planner

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