

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: July 12, 2019

MINUTES – (Informational)

The Wright County Board of Adjustment met July 12, 2019 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, John Jones, called the meeting to order with the following Board members present: Jones, Charlotte Quiggle, Paul Aarestad and Dan Vick. Absent was: Dan Mol. Barry Rhineberger, Assistant 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 June 21, 2019 meeting as printed.

1. **FRANK LUSHINE** – New Item

LOCATION: 6787 Orth Avenue NW – Lot 3 & part of 4, Block 1, Pebble Beach, according to plat of record, Section 34, Township 121, Range 28, Wright County, Minnesota.
(E. Lake Sylvia – Southside Twp.) Tax #217-038-001030 & -001040
Property owners: Richfield Rentals

Requests an after-the-fact variance to expand a dwelling as regulated in Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to increase existing 8' x 20' deck, 4' closer to the lake (proposed is 4' x 20' lake side and 6' x 7' to the south side), 44.6' from the closest point of the ordinary highwater mark of lake. Also, additions currently under construction include a 12' x 11' master bedroom with a new 11' x 8' deck on the north side of the property; and a 6.5' x 14.50' laundry room addition in the southeast corner of the dwelling.

Present: Frank Lushine

- A. Rhineberger reviewed the size of the lot. The lot line adjustment the Board previously heard is still in progress so the square footage of the property will be a little more with the property in the back. A survey displayed is new and the additions started were shown on the survey. Pictures were displayed to show the new construction. One addition is off the southwest side corner and it has been verified with the adjustment, the 15' side line setback can be met. The lakeside deck was enlarged 4' closer to the lake and now measures 12' x 18'. An 11' x 12' bedroom addition that has a 6' x 11' deck, built off of that. These were included on the septic site plan submitted. A covered entry was noted on the photo. The laundry addition was noted in the picture. The proposal is the further encroachment from 48' to 44.6' from the ordinary high-water mark. The bedroom is close to meeting the lake setback; the covered entry portion is closer, but further back than the existing structure from lake.
- B. Lushine – pointed out an existing bathroom, that was back from the front of cabin. Rhineberger confirmed there was a jut out there.

- C. Written response from the Town Board was favorable. They note the deck addition does not extend closer than adjacent structures. Phyllis Latour raised several questions.
- D. Lushine – introduced himself and indicated he bought the land in September, that was part of the Pebble Beach Resort. The older white home (oldest home on the lake, built in 1866) is moved to back of lot is trying to preserve that home by moving it to a back lot. He considers himself as a preservationist, been on the lake 45 years. Had purchased the Boy Scout property on the lake and plans to make a bid on another property on the lake and gift part of the land to the County for a park. This structure before the Board is in poor condition. He has only had the best contractors working on it. Quiggle asked, and those contractors did not know they needed permits? Lushine admitted he was wrong, but it has been done and is beautiful. He assured the Board he will never do anything to impact the quality of the lake and has been involved in the preservation of it. Jones asked if the applicant owned this property when the deck and work was done. Lushine – he refaced the deck and extended 4’ closer to the lake. Jones questioned if these contractor’s he mentioned did the work without permits. Lushine – did not know, can give names of the electric and plumbing contractors. He is not a building contractor and did not know a variance was needed. He stopped work once informed. Jones – applicant should realize that some of what was built could be undone.
- E. Quiggle noted other people that come before the Board are not contractors, but understand they must come and ask for a special favor. With the experience in real estate and projects the applicant has been involved in, she was appalled the applicant did not know. She would not approve anything that expands the deck lakeside. By law, he can replace and not expand the deck beyond 8’. The applicant speaks of caring about the lake quality, he should be concerned about further encroachment on the lake. Lushine – presented a picture of the side of the deck toward the neighbor’s house. That neighbor is 15-20’ closer to the lake than this project. That neighbor has no objection. Quiggle – stated the Board must address practical difficulty and the fact others are closer to the lake has no bearing; otherwise, people could build 10’ from the lake if another structure existed that close. The Board must consider each proposal on its own merit. The entire house is within the setback and questioned other additions. Rhineberger – the expansion includes a deck off a bedroom addition that is 72.5’ and the other small open deck is 55’ from the lake. These two do not meet lake setback, but no closer than the front line of existing house. Quiggle indicated she would go along with the other expansions.
- F. Vick – felt he would not been opposed to working with the applicant before the fact. Possibly moved it to the side if he was looking for more seating room. He questioned if the inspectors will be able to check footings on the work that was done. Rhineberger – indicated the owner will have to prove it to the inspector, must meet code. Vick – noted in the picture one outside rim looks like it is sagging down. He would agree with Quiggle on reducing the front deck 4’.
- G. Aarestad – he would concur and could go along with everything but the expansion of 4’ on the front deck.

- H. Kryzer – asked if Lushine agreed with that? Lushine – indicated he would have to and do what the Board wishes. He noted there would be other items he would be in front of the Board. He needs this approval to address the older white “historical” house that is sitting on the moving equipment. Rhineberger – it will require a permit and would not require a CUP because it is being moved in the same neighborhood.
- I. Rhineberger – questioned if the applicant has plans for further extension of the deck off the addition to allow for better seating? Lushine – stated he would not want that. Vick – that is what he was thinking, cut the front deck back but give some seating room to the side. Lushine explained he looked at this from the lake; and where it is would be more buffered from lake. The small deck off the bedroom is just a place to have a cup of coffee in the morning.
- J. Quiggle moved to deny and approve part of the request for an after-the-fact variance to expand a dwelling as regulated in Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and deny the request to increase existing 8’ x 20’ deck, 4’ closer to the lake and new deck is to be 48.6’ from the closest point of the ordinary highwater mark of lake. Also, additions currently under construction include a 12’ x 11’ master bedroom with a new 11’ x 8’ deck on the north side of the property; and a 6.5’ x 14.50’ laundry room addition in the southeast corner of the dwelling. Condition: Subject to meeting building code and obtaining proper building permits. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

- K. Kryzer put Lushine on notice that Wright County requires building permits and variances. Lushine indicated he understands.

2. **BRENDA & DAVID HEIKES** – New Item

LOCATION: 12443 Estes Avenue NW- Part of Gov't Lot 2, Section 32, Township 122, Range 26, Wright County, MN. (Limestone Lake/Silver Creek Twp.)
Tax 216-100-323204

Requests for a variance of Section 155.026, 155.049 & 155.057 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a roof and screening of a 12' x 16' portion of existing deck that is 58' from the OHM of Limestone Lake.

Present: David & Brenda Heikes

- A. Rhineberger displayed the location map and pictures to show the existing dwelling on 1.47 acres on Limestone Lake. The 1995 variance was given to build the house and future deck no closer than 60'; however, an "as built" survey shows the structure is 5' closer. The request now is to cover and enclose a portion of the deck with a three-season porch. Plans to show what the porch would look like were viewed. Written responses in agreement were a neighbor and Town Board. Another neighbor suggests they enforce the rules without pitting neighbors against each other.
- B. B. Heikes – explained they recently purchased the property and original construction was done by a previous owner. Want to screen in the area to get away from the bugs.
- C. Vick – felt the request is reasonable and will make an outdoor area more useful.
- D. Aarestad – although reasonable use, it is very close to the lake. A variance was given for the construction and giving another concerns him. The Board is concerned these screen porches get turned into living space. He could not support the variance for these reasons.
- E. Quiggle – the deck is impervious coverage and now add a roof you will have more water coming off and less area for the water to soak in. B. Heikes – noted they are on a hill. Quiggle –added, because not adding impervious surface and not within the shore impact zone, she could go along with just a screened porch and not allow a three-season or enclosed addition. This owner may not, but years down the road someone else might.
- F. Vick asked if Quiggle would like a rain garden? B. Heikes – there is 12' before the land drops off. Quiggle asked if there is room for a rain garden? Rhineberger – explained the topography of this lot. He felt the water might be better directed to the back; however, if guttered the water off the house should be collected also. Because of the slope did not think there will be much difference. The drop is steep but only 10-12'. He felt gutters may be the worst thing. He suggests they leave it disperse and not channelize it in this case.
- G. Vick moved to grant a variance of Section 155.026, 155.049 & 155.057 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct a roof and screening of a 12' x 16' portion of existing deck that is 58' from the Ordinary High-water Mark of Limestone Lake. Condition: The porch can only be screened, not converted to three or four-season use. No rain garden will be required. Quiggle seconded the motion. VOTE: CARRIED UNANIMOUSLY

3. **DIERS CORPORATION** – New Item

LOCATION: Part of the W ½ of NW ¼ & NE ¼ & E ½ of NW ¼, except East 262 feet of the North 832 feet of the NE ¼ of NE 1/4, except tract described on Doc 765229, all in Section 20, Township 118, Range 26, Wright County, Minnesota. (Woodland Twp.) Tax #220-000-202200 & -201100

Requests a of variance of Section 155.026 & 155.048(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow two entitlement divisions, one proposed is approximately 9.1 acres and includes approximately 5.55 acre of prime tillable farmland and second division of up to 4 acres and includes approximately 3.65 acres of prime tillable farmland.

Present: Collette Thorson, Diers Corp.; Tracy Janikula, applicant's sister

- A. Rhineberger – explained there are 279 acres in the farm. Proposal is for two “entitlement” divisions, both meet road frontage and size requirements but exceed the 2.5 acres of tillable land. First division referred to as Parcel “A” has 3.96 acres and located at the intersection and is next to an existing residential lot. Proposed lot has 3.65 acres of tillable soils. This will line up with the other division so to have less impact on the farming operation. The same reason was given for a second division, referred to as “B”. This lot is 9.1 acres and would have 5.5 acres of prime tillable soils and fronts the County Road. The applicant was unable to meet with the Town Board because of the 4th of July Holiday. One response from Yager was favorable.
- B. Thorson – explained the dairy economy is what is driving this and proposed lots would have the least impact on the crop land and manure application. Also, the location would be the most appealing because of the existing homes next to them. She indicated plans to later talk to those two residents to see if they would be interested in purchasing them.
- C. Janikula –explained the slope of the land for the second proposed lot “B”, is in perennial forage and would make a nice walkout lot. There is a field road north of the evergreens and if they did a 2.5-acre parcel there that is lower and not as nice of a building site. Rhineberger – the soil types were explained and reason they show up as prime. Janikula – the desire to square up the property was part of the reason and to share an access with an easement recorded. She explained if they were to try to meet the limit, the problems that would create by leaving a narrow 175’ area to farm. Also pointed out the spot that makes a desirable building lot.
- D. Roger Kiefer – resident at 5063 CR 30 SW – owns property on the south side and was uncertain what the proposal was based on the map given with the notice. He suggested they provide more information. Rhineberger – explained the notices meet the legal requirements and is difficult. Kiefer – the neighbors would find it more helpful to know where the variance for the two lots were located. Kiefer – he bought and built out here five years ago and like the fields around them. He would be opposed to the variance.

- E. Waldemar Kern – across the road – when he bought his lot he was told they were in the farming business and not the real estate. Another road coming into here is a very busy road and border line safe. He prefers not having another house there. Would be a narrow lot and someone might not build in back. He objects.
- F. Aarestad – Board wants to see the Town Board response. He felt the owner has weighed the same issues the Board does. The proposal meets the purpose of saving the best tillable land and would support that.
- G. Quiggle -agrees with Aarestad, there have been a couple lots already taken out that took the least agricultural land as possible. These two make the least impact on the farm operation. Understands the difficulty of turning large farm equipment around in this age of farming. Applicant has thought about the potential home locations and the primary goal is to maintain an ag operation. Reducing these lots would leave small parcels that could not be farmed anyway.
- H. Vick – it is important to hear from the Township. Felt if they reduced the one lot, it would push a new home location closer to the road.
- I. Jones asked if the applicant would mind waiting for the Town Board review. Janikula – although they would like action, understood.
- J. Kern – would appreciate a delay to give an opportunity for Town Board review.
- K. C. Thorson – had thought about talking to neighbors, however, did not know if it would be approved. However, want to show that respect to these neighbors who have been great neighbors. The last thing they want to do is sell land, been in the family 150 years and right now this is their only option to continue farming.
- L. Vick moved to continue the hearing to August 2, 2019 for Town Board review. Aarestad seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **JOSHUA J. HARMALA** – New Item

LOCATION: xxxx County Road 3 SW – Part of S ½ of NW ¼ Section 3, Township 119, Range 28, Wright County, Minnesota. (Cokato Twp.) Tax #205-000-032300; - 032301; -032302 & -032303

Property owners: Harmala & Morris

Requests a revision of the previous variance granted on June 24, 2005 as regulated in Section 155.026 & 155.048(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to increase the size of the Harmala parcel by following the existing ditch line. The remainder of the Morris parcels to be combined.

Present: Josh Harmala & Tom Morris

- A. Rhineberger displayed the photos of the 41-acre restricted parcel; and site plan to illustrate the division of agricultural land using the ditch line and 18.65 portion to be added to the Harmala property. The balance of the 22 acres is proposed to be added to the Morris entitlement in the northwest corner. Asked Morris if he wants it combined or to leave the additional land as a restricted agricultural parcel. Morris – indicated he was uncertain now; does not know who the buyer might be. Rhineberger – stated the Board could leave that flexible. He could combine the two small parcels that are a residential site and leave the balance. Combined it would be a 22.65 acre residential “entitlement” division. Town Board approves. The division follows the natural ditch line.
- B. Harmala did not have more to offer. Morris stated he would combine the two in the corner. The property is to be transferred to family and it is likely Harmala would get the larger restricted land. They are trying to keep the family farm together.
- C. Quiggle, Vick and Aarestad all indicated they concurred with the proposal to divide along the ditch and suggested they keep the Morris ag parcel flexible.
- D. Dan Bravinder – Cokato Township Supervisor– they felt it makes sense with where the ditch is. The flexibility would be the best thing to do and noted buyers have a difficult time to get a loan on larger tracts. Agreed combing the two small lots.
- E. Aarestad moved to grant a revision of the previous variance granted on June 24, 2005 as regulated in Section 155.026 & 155.048(G) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to increase the size of the Harmala parcel by following the existing ditch line. Condition: Harmala combine the tax parcels into one and if not possible, an Administrative Order be filed. The survey work is to be submitted to the Planning & Zoning office.

DISCUSSION followed on how the deeds are changed and recorded. Rhineberger explained if there is a mortgage on smaller parcels, the Bank may not want to change the legal. If it is possible to combine, would recommend they do that.

VOTE: CARRIED UNANIMOUSLY

5. **SANDRA L FISKE** – New Item

LOCATION: 15780 & 15778 Griffith Avenue NW – Lots 1-5, Block 2, Block 2, inclusive, and part of vacated roadway, all in Fish Lake Shores, according to plat of record, Section 13, Township 122, Range 27, Wright County. (Fish Lake- Clearwater Twp.) Owners: Fiske & Brereton 204-119-002010 thru 204-119-002050

Requests as regulated in Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to divide Lot 3 and a portion of Lot 4 and incorporate the southeast portion of Lot 3 with Lots 4 & 5 to be owned in common. The northwest portion of Lot 4 is to be incorporated and owned in common with Lots 1, 2, & 3.

Present: Sandy Fiske & Tracy Brereton

- A. Rhineberger displayed the plat of Fish Lake Shores. Fiske had sold two lots with a house to Brereton previously and still owns three additional lots with a house to the north. Reviewed the platted lots that the two own. A portion of Lot 3 would be transferred to Brereton, this is to provide a better lake access for Brereton. The balance be owned by Fiske. This is a lot line adjustment and Town Board approves.
- B. Brereton – wants to install a fence on the north side, it would not be straight without this property. Still give Fiske access to mow the front of their property and only way to access it. She asked about a permit for the chain link fence? Rhineberger explained the chain link fence would not require a permit; but she cannot build a privacy fence because of the lake setback. Permits are required if over 7'. Brereton asked Rhineberger on placement of the fence, pointed out a retaining wall and where she would install the fence. Rhineberger indicated his agreement with what she described.
- C. Discussion on the survey needed to get the footage, followed by the necessary deeds to transfer title. Quiggle asked if the lot coverage is met. Rhineberger – stated the lot line adjustment will be about the same to both. He did not calculate lot coverage because this adjustment will not reduce the lot area.
- D. Aarestad moved to grant as regulated in Section 155.026, 155.049 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances a division of Lot 3 and a portion of Lot 4 and incorporate the southeast portion of Lot 3 with Lots 4 & 5 to be owned in common. The northwest portion of Lot 4 is to be incorporated and owned in common with Lots 1, 2, & 3. Condition: Subject to survey and require parcels be combined under one tax parcel, if it cannot be combined, owners are to complete an Administrative Order. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION: Rhineberger explained the steps to transfer title and the Auditor's Combine form to be filed to join all tax parcels owned by each of them. An Administrative Order would be prepared by Staff if the Auditor cannot combine.

Meeting adjourned at 9:36 a.m.

Respectfully submitted,

Barry J. Rhineberger
Planner

BJR:tp

Cc: Board of Adjustment
County Board
Kryzer
Twp. Clerk
Administration