

**MINUTES**  
**Blue Earth County Board of Adjustment**  
**Regular Meeting**  
**Wednesday, December 4, 2013**  
**7:00 p.m.**

**1. CALL TO ORDER**

The meeting was called to order at 7:00 P.M. by Chairman Lyle Femrite. Board of Adjustment members present were Lyle Femrite, Bill Anderson, Kurt Anderson, Chuck Grams and Perry Wood. Planning & Zoning staff members Mike Schulte, George Leary and Owusua Yamoah were also present.

**2. APPROVAL OF MINUTES**

Mr. Grams made a motion to approve the minutes from the November 6, 2013 meeting of the Board of Adjustment. Mr. Bill Anderson seconded the motion which carried unanimously.

**3. APPROVAL OF AGENDA**

Mr. Leary indicated there was no change to the agenda.

**4. OLD BUSINESS**

**BOA 18-13**

**Scott & Amanda Bohlke** - Request for an after-the-fact variance to reduce the required setback to a bluff from 30 feet to zero feet for the purpose of constructing a 14 foot by 20 foot utility shed. The property is zoned Conservation and Shoreland and is located in part of the Northwest Quarter of the Northeast Quarter of Section 28, South Bend Township.

Mr. Femrite asked if staff had any further comment.

Mr. Leary indicated staff had no further comment.

Mr. Femrite provided a brief review of the meeting held on site.

Mr. Wood stated his opinion that the application would likely be looked upon differently by the Board had the application been submitted following the normal timeline procedure. He also indicated that the ordinance and its requirements are designed to protect the environment and the property owner. He cited recent examples of situations where there had been issues with unstable bluffs in Mankato, New Ulm and California. He also referenced recent variance requests that had been denied including one on Loon Lake and after-the fact construction issues the county has experienced with Mr. McGowan.

Mr. Kurt Anderson agreed with Mr. Wood regarding the purpose of the ordinance and indicated that after-the-fact requests are a serious matter. He added that each application is reviewed on its own merits and the purpose of the Board of Adjustment is to provide relief of the strict application of the law.

Mr. Anderson stated the structure has a significant foundation and that he is concerned that removal of the structure and foundation may create additional issues with the bluff. He also indicated that storm water runoff is an issue. Adding rain gutters and redirecting the roof water as discussed on site will help.

Mr. Grams agreed with Mr. Anderson's comments. He added that a berm should be placed from the edge of the building to a flat area.

Mr. Bill Anderson agreed with Mr. Kurt Anderson and Mr. Grams and thought the idea of adding the berm was a good idea.

The applicant had no further comment.

Mr. Kurt Anderson made a motion to approve the variance based upon the information gathered on site, the discussion from the November 6<sup>th</sup> meeting and the findings-of-fact checklist. He added that rain gutters with downspouts shall be installed and a buried tile line shall redirect the roof water to a calmer location. In addition, landscaping and a retaining wall shall be constructed to protect the ravine area.

Mr. Grams seconded the motion which carried unanimously.

Mr. Bohlke asked where the berm needs to be located.

Mr. Femrite stated it should be front of the east side of the building.

Mr. Kurt Anderson indicated the retaining wall should be near the entrance to the building.

Mr. Femrite asked Mr. Bohlke if the project could be completed by May 20<sup>th</sup>. Mr. Bohlke stated that it could.

## **5. NEW BUSINESS**

### **BOA 19-13**

**Mark's Farms Inc.** - Request to reduce the required lot size for a feedlot of 1000 Animal Units (A.U.) or more from 40 acres to 20 acres for the purpose of expanding an existing poultry operation. The property is zoned agricultural and is located in the Northwest quarter of the Southeast quarter of Section 15 Mapleton Township.

Mr. Schulte presented the staff report.

The applicant was present and reviewed his statement of practical difficulty with the Board.

There was no public comment.

Mr. Femrite asked if the applicant could decrease the number of animal units.

Mr. Leary indicated that the size of a livestock operation is often based upon flow in and out of the facility of stock, feed, and final output.

Mr. Grams asked the applicant a couple of questions regarding the storage and handling of manure. The applicant indicated that the barns are cleaned weekly and the manure is stored in an above-ground concrete manure storage structure. From there the manure is hauled out to farm fields.

There was also discussion by the Board regarding the MPCA's revision of animal unit calculations. The calculations based on county regulations equate to a much higher number of animal units than using MPCA calculations.

The Board discussed the original intent of requiring 40 acres for sites with 1,000 or more animal units. The general consensus was that due to the significantly higher value of farmland today vs. when the ordinance was originally adopted and that the proposed site will not likely experience the same expense of abandoning the proposed manure storage structure vs. a deep-pitted barn.

Mr. Kurt Anderson made a motion to approve the requested variance based upon evidence included in the staff report and testimony provided by the applicant.

The findings-of-fact checklist was then reviewed by the Board.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? *Mr. Kurt Anderson stated yes.*
2. Without the variance, is the owner deprived of a reasonable use of the property? *Mr. Femrite, Mr. Kurt Anderson, and Mr. Grams all stated yes.*
3. Is the alleged practical difficulty due to circumstances unique to this property? *Mr. Femrite, Mr. Grams and Mr. Kurt Anderson stated yes.*
4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner or previous landowners? *Mr. Femrite, Mr. Grams, Mr. Bill Anderson and Mr. Kurt Anderson stated yes.*
5. Will the issuance of the variance maintain the essential character of the locality? *Mr. Kurt Anderson and Mr. Femrite stated yes.*
6. Does the alleged practical difficulty involve more than economic considerations? *Mr. Grams and Mr. Femrite stated yes.*

Mr. Bill Anderson then seconded the motion which carried unanimously.

### **BOA 20-13**

**Gaylen & Shari Lenz** - Request for a variance to reduce the required side yard setback from 50 feet to 45 feet on the east and west sides of the property for the purpose of constructing a single family unit dwelling. The property is located in Conservation and Shoreland zoned districts in the NW Quarter of the NE Quarter of Section 10, Garden City Township.

Mr. Leary presented the staff report.

The Applicants were present. Mr. Lenz indicated that they have met the 100 foot setback requirement to the OHWL of the lake and that they are trying to maintain the integrity of the shoreline.

Mr. Bill Anderson and Mr. Femrite both commented that the 50 foot setback requirement is a lot.

Mr. Bill Anderson made a motion to approve the requested variance without review of the findings-of-fact checklist.

Mr. Wood seconded the motion.

Mr. Kurt Anderson asked the applicant a few questions. Square footage – 1903 square feet. Basement – Yes. Walkout – No. Have possible changes to the shoreland area been discussed with staff – yes.

The motion was unanimously passed.

### **BOA 21-13**

**Fred & Karin Bock** - Request for a variance to increase the allowable square footage of a proposed care giving unit for elder care / dependent care to more than 40% of the habitable area of the existing principal single family dwelling. The proposal also includes increasing the number of allowable amenities to accommodate the caregiver unit as a single family dwelling that will be occupied by the applicant's son and his family. The property is located in the NW Quarter of the NW Quarter of Section 18, Decoria Township and is zoned conservation.

Mr. Leary presented the staff report.

The applicants were present. Mr. Bock provided a brief statement on the need for the requested variance.

Mr. Wood asked if it is possible to add on to the existing home.

Mr. Bock indicated the existing structure does not lend itself very well to an addition. The architectural design of the existing home is such that it will not fit well with any of today's construction. He added that it was their intent to remove the existing home before the initial meeting with staff.

Mr. Wood made a motion to approve the requested variance without review of the findings-of-fact.

Mr. Kurt Anderson seconded the motion which carried unanimously.

### **6. OTHER BUSINESS**

Following the regular business items of the meeting, the Board held a brief discussion of the status of the feedlot ordinance and the anticipated plans for reviewing the ordinance. The Group was advised that the Minnesota Pollution Control Agency is in the process of amending the State 7020 Feedlot Regulations and upon the passage of that amendment, the county may look at opening the County Feedlot Regulations for review.

### **7. ADJOURNMENT**

There was no further business and the meeting was adjourned at 8:50 p.m.

---

Board of Adjustment Chair

---

Board of Adjustment Secretary