

MINUTES
Blue Earth County Board of Adjustment
Regular Meeting
Wednesday, August 5, 2015
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:00 P.M. by acting Chairman Kurt Anderson. Board of Adjustment members present were Bill Anderson, Kurt Anderson, Chuck Grams and Barry Jacques. Planning & Zoning staff members Chris Meeks, Aaron Stubbs, Ben Effah and George Leary were also present.

2. APPROVAL OF MINUTES

Mr. Chuck Grams made a motion to approve the minutes from the July 1, 2015 regular meeting of the Board of Adjustment. Mr. Jacques seconded the motion which carried unanimously.

3. APPROVAL OF AGENDA

Mr. Leary indicated there was no change to the agenda. Mr. Leary then introduced Chris Meeks as the new Feedlot Officer for Blue Earth County and advised the board members Mike Schulte had accepted another position in the Environmental Services Department.

4. NEW BUSINESS

BOA 09-15

Scott and Jan Engelen - Request for a variance to reduce the setback to the top of a bluff from 30 feet to 20 feet to allow for the construction of a 14 foot by 20 foot detached garage. The site is Lot 10 Block 40 which is located in the Northeast Quarter of the Northwest Quarter of Section 22, South Bend Township and is zoned Rural Townsite. The property is also located in the Urban Fringe Overlay District of the City of Mankato.

Mr. Stubbs presented the staff report.

The applicants were present and both made comments. Mrs. Engelen asked if any of the members had visited the site; they had not. Mrs. Engelen stated the existing sheds were 10' from the hillside, one of them had been there for 20 years. Mr. Engelen also stated the house is 12' away from the hillside at one point and 6' away from the hillside at its closest point. The house has been there for 70 years. Mr. Engelen stated that the condition of the bluff is the same as it has been for the past 21 years. Mr. Engelen stated that below the house is a shelf where an old railroad bed was abandoned. He also stated the abandoned railroad bed is all rock. Mr. Engelen stated his septic drain field is down there. Mr. Engelen stated it was his opinion that if the bluff was good enough for the railroad bed, it is never going to wash out. He also stated that the slope had endured several instances of heavy rain this year without any visible changes. Mrs. Engelen stated that replacing the existing sheds would be more aesthetically pleasing and moving it too far forward would take up too much of the yard. Mr. Engelen stated that Seppman's requested 4 feet of clearance between the well and the structure for maintenance but Mr. Engelen is asking for more room. Mrs. Engelen asked the board members if they had any additional questions; none were asked.

Chuck Johanson has lived in the area for 30+ years and the bank has not changed. Mr. Johanson stated the power lines that are located on the bluff have not washed away. He also stated, believes that when Seppman's placed the septic system, they did so because they believed the bank is stable. Mr. Johanson stated that if the applicant's request is denied, the existing sheds will remain located 10' from

the bluff. His opinion is the applicants are trying to “do something better.” Mr. Johanson stated the township had no objection because they know the hillside is stable and he thinks the request should be approved.

Paul Enter has provided advice to the applicant based on his career with the City of Mankato. Mr. Enter stated the proposed structure will provide additional tax revenue and is a “win-win for everyone.”

There was no further public comment.

Mr. Anderson asked if there were any additional comments from George Leary, Blue Earth County Zoning Administrator. Mr. Leary stated it is a difficult task for the board to review these requests, and even though the bluff may seem stable today he asked the board to consider unforeseen circumstances or events that may lead to the destabilization of the bluff. Mr. Leary stated it is staff’s opinion that there is plenty of room in the front yard for locating the proposed structure and aesthetics alone should not constitute the need for a variance.

Mr. Bill Anderson asked staff how close to accurate the revised handout showing the proposed location of the detached garage was with regard to the northern border of the property. Mr. Stubbs stated the revised handout was created to scale and is much more accurate than the original version. Mr. Stubbs stated he could not say the handout was survey accurate but the location depicts what was discussed onsite with the applicant.

Mr. Bill Anderson asked staff how much distance is between the proposed north wall of the shed and the edge of the property line. Mr. Stubbs stated he did not remember the exact number but there was enough distance between the northern property line and the house to locate the proposed structure without a variance. Mr. Anderson asked Mr. Leary if in his opinion the applicants moved the proposed structure 10 feet further to north if it would create an issue for the applicants. Mr. Leary stated staff located the survey pin onsite and measured to the center of the right-of-way. This measurement revealed there was enough area to move the proposed structure further away from the bluff.

Mrs. Engelen asked the board to keep in mind the well is located in the front yard and advised them she has picture of the well site. Mr. Kurt Anderson told Mrs. Engelen if she wanted to introduce her pictures the board would review them. Mrs. Engelen described the picture as she introduced them.

Mr. Leary advised the board that the required setback to a well for new construction is 3 feet from the overhang.

Mr. Jacques asked staff if the septic system needed to be redone, could it be located in the same area it is today. Mr. Leary advised the board that municipal sewer was not available in this area and his recollection was the property has a code compliant septic system. He did not remember where a replacement system would be located. Mr. Engelen stated that Jadd Seppman stated he would put a new system on top of the old system.

Mr. Grams asked staff how much space is there would be between the well and the new structure if it was moved 10’ to the north. Mr. Engelen stated that moving the structure 10’ to the north would leave 4’ of space between the well and the overhang of the proposed garage. Mr. Engelen stated Jadd Seppman had indicated the setback was 3 ½ feet for new construction, not 3 feet as specified by staff.

Mr. Kurt Anderson asked what type of foundation the proposed structure would have. Mr. Engelen stated the proposed structure would have a concrete floating slab.

Mr. Kurt Anderson moved the board to its Findings of Fact checklist.

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Mr. Kurt Anderson - No

Why or why not? Mr. Kurt Anderson – Bluffs are being protected all over the county

2. Has the applicant thoroughly explained the need for a variance from the official controls? Mr. Kurt Anderson, Mr. Bill Anderson, Mr. Grams and Mr. Jacques -Yes

Why or why not? Mr. Anderson stated the applicants did a good job explaining their need for the variance

3. Is the alleged practical difficulty due to circumstances unique to this property? Mr. Kurt Anderson - No

Why or why not? There are a lot of properties in a similar situation and a lot of people throughout the county who would like to develop their property and infringe on the bluff area Mr. Kurt Anderson stated that each instance is treated independently of other, similar requests

4. Were the circumstances causing the practical difficulty created by someone other than the landowner or previous landowners? Mr. Grams, Mr. Bill Anderson and Mr. Kurt Anderson – No, not really

Why or why not? Mr. Kurt Anderson - it was not

5. Does the alleged practical difficulty involve more than economic considerations? Mr. Kurt Anderson – Yeah, it definitely does

Why or why not? Mr. Kurt Anderson – but as staff indicated earlier, aesthetics are not considered a practical difficulty. You do have reasonable use of the property

6. Without the variance, is the owner deprived of a reasonable use of the property? Mr. Grams, Mr. Jacques and Mr. Bill Anderson – No Mr. Kurt Anderson – I agree, no

Why or why not? Mr. Kurt Anderson – you still have use of the property, the house has been there for 70 years and you're not compelled to remove the existing buildings you have out there

7. Is the request the minimum variance necessary to afford relief? Mr. Kurt Anderson – I don't believe so

Why or why not? Mr. Kurt Anderson – you could have asked for 25 foot setback from the bluff instead of 20 and that perhaps would have been a happy medium but that is not what is being presented here today Board members – I agree

8. Will the issuance of the variance maintain the essential character of the locality? Mr. Kurt Anderson - Yes

Why or why not? No further discussion

9. Will the public health, safety and environment be preserved if the variance is approved? Mr. Kurt Anderson - Yes

Why or why not? No further discussion

The acting Chairman closed the public discussion portion of the hearing.

Mr. Kurt Anderson asked the board members if this request was something they wanted to go look at onsite. He advised that county staff had already visited the site.

Mr. Bill Anderson stated he believed by moving the structure further to the north, the well could still be avoided. Mr. Anderson then stated that meant the only remaining reason for the variance was to keep the structure in line with the house and because they are two separate buildings he did not know if that was enough of a reason to grant the variance.

Mr. Barry Jacques stated that in his community, front setbacks are a problem. They do not promote variances for aesthetics.

Mr. Chuck Grams stated the applicant should have requested a compromise but they did not so the board cannot act on it tonight.

Mr. Bill Anderson stated that he did not believe visiting the property would change his mind.

Mrs. Engelen asked if she could speak. Mr. Kurt Anderson advised that the public comment portion of the meeting had been closed.

Mr. Chuck Grams made a motion to deny the requested variance to reduce the setback to the top of a bluff from 30 feet to 20 feet for the construction of a 14' x 20' detached garage. Mr. Bill Anderson seconded the motion. The motion carried by a vote of four to zero.

5. ADJOURNMENT

There was no further business. Mr. Barry Jacques made a motion to adjourn the meeting. Mr. Bill Anderson seconded the motion which carried unanimously and the meeting was adjourned at 7:40 p.m.

Board of Adjustment Chair

Board of Adjustment Secretary