

MINUTES

Blue Earth County Board of Adjustment Regular Meeting Wednesday April 5, 2017 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 Bill Anderson, Kurt Anderson, Lyle Femrite, Barry Jacques and Joe Smentek. Planning & Zoning staff members Chris Meeks, Aaron Stubbs, and George Leary were also present.

2. APPROVAL OF MINUTES

Kurt Anderson made a motion to approve the minutes from the March 1, 2017 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.

4. NEW BUSINESS

BOA 05-17

Jesse Hendley - Request for review and approval of an after the fact variance to reduce the required setback from the top of a bluff from 30 feet to 21 feet to accommodate an already constructed accessory structure. The property is zoned Agricultural and is located in part of the Southeast Quarter of the Northwest Quarter of Section 12, Judson Township.

Mr. Leary presented the staff report.

The applicant was present. He indicated the house is closer to the bluff than the detached garage.

Krista Hendley provided some additional history of the property. She added that Jesse Hendley had contacted the City of Lake Crystal and was advised that a permit was not required. She also stated that to remove the structure would be financially devastating. He had also met with the township and they indicated their appreciation for his efforts. If another location is necessary, trees will be required to be removed.

Jeff Davis was present on behalf of Judson Township. Mr. Davis discussed the bluff setback setbacks.

Dean Owens, a neighbor straight to the north of the Hendley property addressed the Board. Mr. Owens indicated Mr. Hendley has done a wonderful job on the project. He added that he too has a bluff of similar type on his property and it has remained very stable. In 60 years, the erosion has not increased and the soil has been stable. He stated that Mr. Hendley has not acted in any disregard of the regulations.

Mr. Femrite stated the general runoff does come to the area.

Mr. Kurt Anderson asked if the distance between the house and bluff had been measured by staff. Staff indicated it had not been measured. Mr. Anderson continued. He did not see a benefit of removing the structure, but is frustrated with the number of after-the-fact variance requests. He

acknowledged that the applicant did act in good faith by contacting the City of Lake Crystal. Mr. Anderson concluded with his opinion that there would be no benefit to tear down the structure and that it is a considerable investment.

Mr. Jacques concurred with Mr. Anderson's statements. He suggested that rain gutters be added to the structure.

Mr. Bill Anderson stated he would be more comfortable with the project if rocks or blocks were added to divert the drainage.

Mr. Femrite indicated that water would be the only cause a potential blow out. He added that previous testimony has indicated the nearby stream is low volume.

The Board moved on to the Findings of Fact Checklist

FINDINGS OF FACT

SUPPORTING/DENYING A VARIANCE

Name of Applicant: Jesse Hendley

Date: 04/05/2016

Parcel #: R38.07.12.100.018 Variance Application #: BOA 05-17

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers "Yes" to each of the six questions set forth below.

1. Is the variance in harmony with the general purposes and intent of the official control? Kurt Anderson indicated the existing structure did not meet setback requirements and it is not an intensification.
2. Is the variance consistent with the goals and policies of the comprehensive plan (also referred to as the "Blue Earth County Land Use Plan")? All indicated yes.
3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control? All indicated yes, making best use of the property.
4. Is the need for the variance due to circumstances unique to the property and not created by the landowner? Kurt Anderson indicated yes – the existing home and garage are not in compliance. Joe Smentek stated the existing garage has been added on to. .
5. Will the issuance of the variance maintain the essential character of the locality? All indicated yes.
6. Does the need for the variance involve more than economic considerations? All indicated yes.

The Board proceeded with the After-the-Fact Findings of Fact Checklist.

FINDINGS OF FACT

SUPPORTING/DENYING AN AFTER-THE-FACT VARIANCE

If the Board of Adjustment answers "Yes" to all 6 questions on the Findings of Fact Supporting/Denying a Variance document, then the Board of Adjustment shall take into consideration and weigh the following criteria:

1. Did the applicant act in good faith? Was there any attempt to comply with the ordinance? Please explain. Kurt Anderson stated yes, based upon the applicant's statement, township comments and public testimony.
2. Did the applicant make a substantial investment of money into the project? Please explain. All indicated yes.
3. Did the applicant fully complete the project? Please explain. All indicated no.
4. Are there similar structures in the area? Please explain. Joe Smentek indicated there are similar structures in the area.
5. Would the benefit to the county be outweighed by the burden on the applicant, if the applicant is required to comply with the ordinance? Kurt Anderson said yes based on reasons provided earlier. Bill Anderson and Joe Smentek agreed. Mr. Smentek added the action was not egregious.

Following the review of the checklists, the Board resumed further discussion.

Mr. Femrite suggested that rain gutters be added. Mr. Kurt Anderson and Mr. Smentek agreed.

Mr. Femrite asked the applicant if he was willing to add a small berm near the bluff. No response was given.

Mr. Leary suggested if a condition requiring gutters was added, that the gutters should also be required to be maintained.

Mr. Kurt Anderson indicated he had recently read the Blue Earth County Communicator and it was very clear to contact county staff. He added that this could have been very costly to the owner. Other variances have been denied.

There was no further discussion. Mr. Smentek made a motion to approve the variance with the added condition that gutters be installed and maintained. And if possible all water be directed away from the ravine.

Mr. Bill Anderson seconded the motion and the motion carried unanimously.

5. ADJOURNMENT

Mr. Smentek made a motion to adjourn the meeting. Mr. Jacques seconded the motion and the meeting was adjourned at 7:55 p.m.

Board of Adjustment Chair

Board of Adjustment Secretary