

MINUTES
Blue Earth County Board of Adjustment
Regular Meeting
Wednesday, May 5, 2010
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:00 P.M. by Lyle Femrite. Board of Adjustment members present were Bill Anderson, Kurt Anderson, Lyle Femrite, Chuck Grams and Don Gerrish. Land Use and Natural Resources staff present was George Leary and Sara Isebrand.

2. APPROVAL OF MINUTES

Kurt Anderson made a motion to approve the minutes from the February 3, 2010 meeting of the Board of Adjustment. Chuck Grams seconded the motion which carried unanimously.

3. APPROVAL OF AGENDA

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

4. NEW BUSINESS

BOA 02-10 Tom Pongratz – Request for a variance to reduce the side yard setback from 10 feet to zero (0) feet and the rear yard setback from 10 feet to six (6) feet for the replacement of garage/storage structure in the Conservation and Shoreland Zoned Districts in the NE ¼ of the NE ¼ of Section 11, LeRay Township.

Ms. Isebrand presented the staff report.

The applicant was not present.

There was no other public comment.

Mr. Leary advised the Board that he had met with the applicant on site. He indicated that the side yard property line has been surveyed and that the aerial photo does not accurately depict the side yard property line. Mr. Leary added that the northwest corner of the existing garage is actually one foot away from the property line and that the northeast corner of the existing garage is across the property line by approximately one foot. Mr. Leary stated that the wall of the proposed replacement building will be one foot away from the property line and the overhang will be right at the property line. Mr. Leary also stated that the well is located just south of the existing garage and proposed garage. The location of the well is a major factor for the need for a side yard variance.

Mr. Leary also addressed the rear property line. He stated that the applicant's request is to encroach to a point six feet away from the rear property line. Mr. Leary indicated that he discussed the proposal with the applicant and advised the applicant that in his opinion there may not be a hardship involving the rear yard setback.

Mr. Grams asked of the dimensions of the proposed garage.

Ms. Isebrand indicated the proposed project is 24' by 48' ground cover and 26' by 50' with overhang.

Mr. Femrite commented on the side yard setback saying that surveys can vary by a few inches. He added that he is a bit concerned if another survey shows that the proposed building crosses the property line. Mr. Femrite suggested that a side yard setback of one half foot may be more appropriate.

The Board moved on to the variance checklist.

Findings of Fact Supporting an Area Variance

An area variance may be granted only where the strict enforcement of county zoning controls will result in “practical difficulty”. A determination that a “practical difficulty” exists is based upon the consideration of the following criteria as defined by the Minnesota Supreme Court in In re the Matter of the Decision of County of Otter Tail Board of Adjustment to Deny a Variance to Cyril Stadvold and Cynara Stadvold.:

- 1. Is the request a substantial variation from the requirements of the zoning ordinance? Why or why not?
Lyle Femrite – Yes, there will be little or no setback
- 2. Will the request have an adverse effect on government services? Why or why not?
Chuck Grams – No
- 3. Will the requested variance effect a substantial change in the character of the neighborhood or will it result in a substantial detriment to neighboring properties? Why or why not?
Lyle Femrite – No
- 4. Is there another feasible method to alleviate the need for a variance? (Economic considerations play a role in the analysis under this factor) Why or why not?
Lyle Femrite – No due to the location of the well. Kurt Anderson – Yes because the size of the proposed structure could be downsized.
- 5. How did the need for a variance arise? Did the landowner create the need for the variance? Explain.
Lyle Femrite – Yes because the size of the structure can be reduced and No due to the location of the well.
- 6. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?
Chuck Grams – No, the property owner should have rights to use the property. Don Gerrish agreed.

There was no further discussion on the request.

Don Gerrish made a motion to deny the request to reduce the rear yard setback from 10 feet to six (6) feet and to approve a variance to reduce the side yard setback from 10 feet to one half (1/2) foot to allow for the replacement of an existing garage with a new structure.

Bill Anderson seconded the motion which was unanimously approved.

5. ADJOURNMENT

There was no further business. Kurt Anderson made a motion to adjourn the meeting which was seconded by Chuck Grams. The motion carried and the meeting was adjourned at 7:25 P.M.

Board of Adjustment Chair Date

Board of Adjustment Secretary Date