

*Blue Earth County Board of Adjustment Members:
Chair Lyle Femrite, Charles Grams, Bill Anderson, Don Gerrish and Kurt Anderson*

AGENDA

Blue Earth County Board of Adjustment

Wednesday, January 4, 2012

7:30 P.M.

Commissioners Room, Blue Earth County Courthouse
204 South Fifth Street, Mankato, Minnesota

- 1. CALL TO ORDER**
- 2. APPROVAL OF MINUTES – December 7, 2011 Regular Meeting**
- 3. APPROVAL OF AGENDA**
- 4. NEW BUSINESS**
BOA 01-12
Jason Tauer, Request for a variance to reduce the required setback to the ordinary high water mark of Lieberg Lake from 150 feet to 90 feet for the purpose of constructing a second story on the existing one and one half story house and an attached garage. Located in the Conservation District in parts of the NE ¼ of the SE ¼ Section 16, Butternut Township.
- 5. OTHER BUSINESS**
- 6. ADJORNMENT**

MINUTES
Blue Earth County Board of Adjustment
Regular Meeting
Wednesday, December 7, 2011
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:03 P.M. by Kurt Anderson. Board of Adjustment members present were Kurt Anderson, Bill Anderson, Chuck Grams and Don Gerrish. Land Use and Natural Resources staff present was George Leary and Sara Isebrand.

2. APPROVAL OF MINUTES

Mr. Gerrish made a motion to approve the minutes from the November 2, 2011 meeting of the Board of Adjustment. Mr. Grams seconded the motion which carried unanimously.

3. APPROVAL OF AGENDA

Mr. Leary indicated that BOA 09-11 was withdrawn.

4. NEW BUSINESS

BOA 08-11

Ivan Borchardt & Triple R Pork, Request for a variance to reduce the feedlot to dwelling setback from 1500 feet to 730 feet to the house to the North, 1050 to the house to the South and 150 feet from the applicant's house from an existing feedlot. The property is located in the NE 1/4 of the SW 1/4 Section 27, Lyra Township. No new construction at the feedlot site.

Ms. Isebrand presented the staff report.

The applicant was present and had nothing to add. There was no other public comment.

There was little discussion from the Board of Adjustment members. Mr. Bill Anderson made a motion to waive the variance checklist and approve the request to reduce the required feedlot to dwelling setback from 1,500 feet to 730 feet to the house to the North, 1050 to the house to the South and 150 feet from the applicant's house from an existing feedlot. Mr. Gerrish seconded the motion which carried unanimously.

5. OTHER BUSINESS

Mr. Leary presented the members of the Board of Adjustment that are also Planning Commission members a copy of the draft Chapter 24 Zoning Ordinance to review for a workshop in January.

6. ADJORNMENT

There was no further business. Mr. Gerrish made a motion to adjourn the meeting which was seconded by Mr. Grams. The motion carried and the meeting was adjourned at 7:29 P.M.

Board of Adjustment Chair

Board of Adjustment Secretary

Applicants

Jason Tauer
21226 489th Ave
Lake Crystal MN 56055

Request and Location

The applicants are requesting a variance to reduce the required setback to the ordinary high water mark of Lieberg Lake from 150 feet to 90 feet for the purpose of constructing a second story on the existing one and one half story house and an attached garage. Located in the Conservation District in parts of the NE ¼ of the SE ¼ Section 16, Butternut Township.

Legal Description

Commencing at the Southeast corner of said Government Lot Two (2) at the intersection of the East line of said Government Lot with the Northerly high water mark of Lieberg Lake, said point being the point of beginning, thence Northerly along said Easterly boundary of Government Lot Two (2) a distance of 500 feet, thence due West a distance of 600 feet thence due South 380 feet more or less to the Northerly boundary of Lieberg Lake, thence Easterly and Southeasterly along the water's edge approximately 670 feet, more or less, to the point of beginning. Said tract is located in Section 16, Township 108, Range 29, Blue Earth County, Minnesota.

Also described as:

That part of Government Lot 2 in Section 16, Township 108 North , Range 29 West, Blue Earth County, Minnesota, described as: Commencing at the East Quarter Corner of Section 16; thence South 00 degrees 00 minutes 00 seconds West (assumed bearing), along the East line of Government Lot 2 a distance of 1053.80 feet to the point of beginning; thence South 90 degrees 00 minutes 00 seconds West, 600.00 feet; thence South 00 degrees 00 minutes 00 seconds West, 310 feet, more or less, to a point on the northerly water's edge of Lieberg Lake; thence southeasterly along said northerly water's edge 640 feet, more or less, to a point on the East line of Government Lot 2; thence North 00 degrees 00 minutes 00 seconds East, along said East line, 515 feet, more or less, to the point of beginning. Subject to an easement for County Highway No. 6 purposes over and across the northeasterly corner; also subject to any other easements of record.

Zoning

The property is zoned Conservation.

General Site Description, Site History, and Land Use Information

The property consists of the applicant's home and a few storage sheds. The house has been on the lot since 1936. The current home is one and one half stories. The applicant would like the house to be a full two stories. The home is 90 feet from the Ordinary High Water Mark (OHWM). The applicant is also purposing to construct an attached garage to the home. The

attached garage would be even further away from Lieberg Lake as the applicant wishes to build it at an angle. The number of bedrooms within the house is to stay at 3 bedrooms. There will be no construction that will encroach on the OHWM than what is currently there.

Existing Land Use within 1/4 Mile

North: Crop land
South: Crop land and Lieberg Lake
East: Crop land and County Road 6
West: Crop land

Access No change in access points is proposed.

NATURAL RESOURCES INFORMATION

Topography

The topography of the area is flat to gently rolling.

Floodplain

The proposal is not within a floodplain area.

Shoreland

The proposal is within 90 feet of Lieberg Lake.

Wetlands

According to the National Wetlands Inventory, there are wetlands in the North West corner of the property and along the shoreline of Lieberg Lake. This proposal is not within the wetlands as defined on the National Wetlands Inventory.

Township Review

In a phone conversation with Mary Huyen, Butternut Township Clerk on December 27, 2011 she stated that Mr. Tauer had come before the township board. The board voted to approve the variance as long as Mr. Tauer complies with all County requirements.

Staff Comments

Septic Review- The septic for the house and the shed were installed on October 3, 2007. This is still covered by the original 5 year compliance certificate. The system was installed for a 3 bedroom house. The proposed addition does not increase the house footprint other than the larger garage. The required setbacks for the septic system may not be impacted by the proposed expansion and will be addressed in the building permit. If the addition to the house increases the number of bedrooms or other qualifying bedroom space per MN Rule 7080, the septic system will need to be increased in size. This will be reviewed with the building permit.

Well Review- The enclosed site plan indicates that one well on the north side of the house. A review of the County well files indicates a sealed well, unique # H13458 located NW of the house. The proposed construction must not be built closer than 3 feet from the in-use well.

Wetland Review- The variance request should not impact any wetlands. However, there is most likely fringe wetland along the edge of Lieberg Lake that must be protected and not negatively impacted during and after construction.

Applicable Sections of the County Land Use Ordinance

Sec. 14-82 Land Use districts (d) Descriptions (1) Natural Environment Lakes (e)

Placement of Structures on lots. (2) Structures and on-site sewage system must set back 150 feet from the ordinary high water level.

Sec. 24-47. Board of adjustment. (d) Powers and appeals.

(1) **Powers.** The board of adjustment shall have power to grant a variance to any of the provisions of this chapter to the extent of the following and no further:

a. To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this chapter.

Sec. 24-47. (e) Findings required. The board of adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the board of adjustment may require:

(1) That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.

(2) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Applicant's Statement of Hardship

Please see attachment A-3: Letter of Practical Difficulty

The House is a one and one half story house. The applicant wasn't to make the house a full two story house with an attached garage. House has been on the property since 1936.

Opinions

Staff has developed the following opinions:

1. That the applicants have demonstrated a need to construct a stoop and concrete steps to replace the rotten and deteriorated deck for entrance into the front of the home.

2. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Recommendations

Staff recommends approval of the request to reduce the required setback to the ordinary high water mark of Lieberg Lake from 150 feet to 90 feet for the purpose of constructing a second story on the one and one half story house and an attached garage, contingent upon the following condition:

1. That the applicants obtain a construction permit prior to commencement of construction activities.

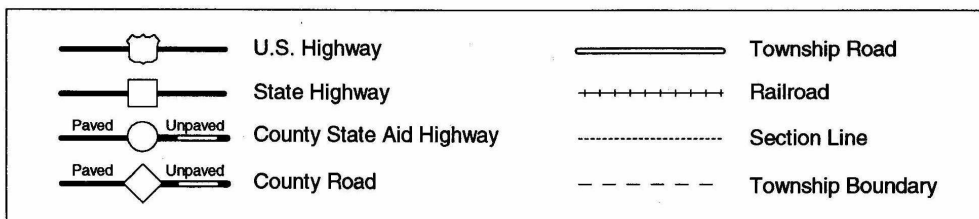
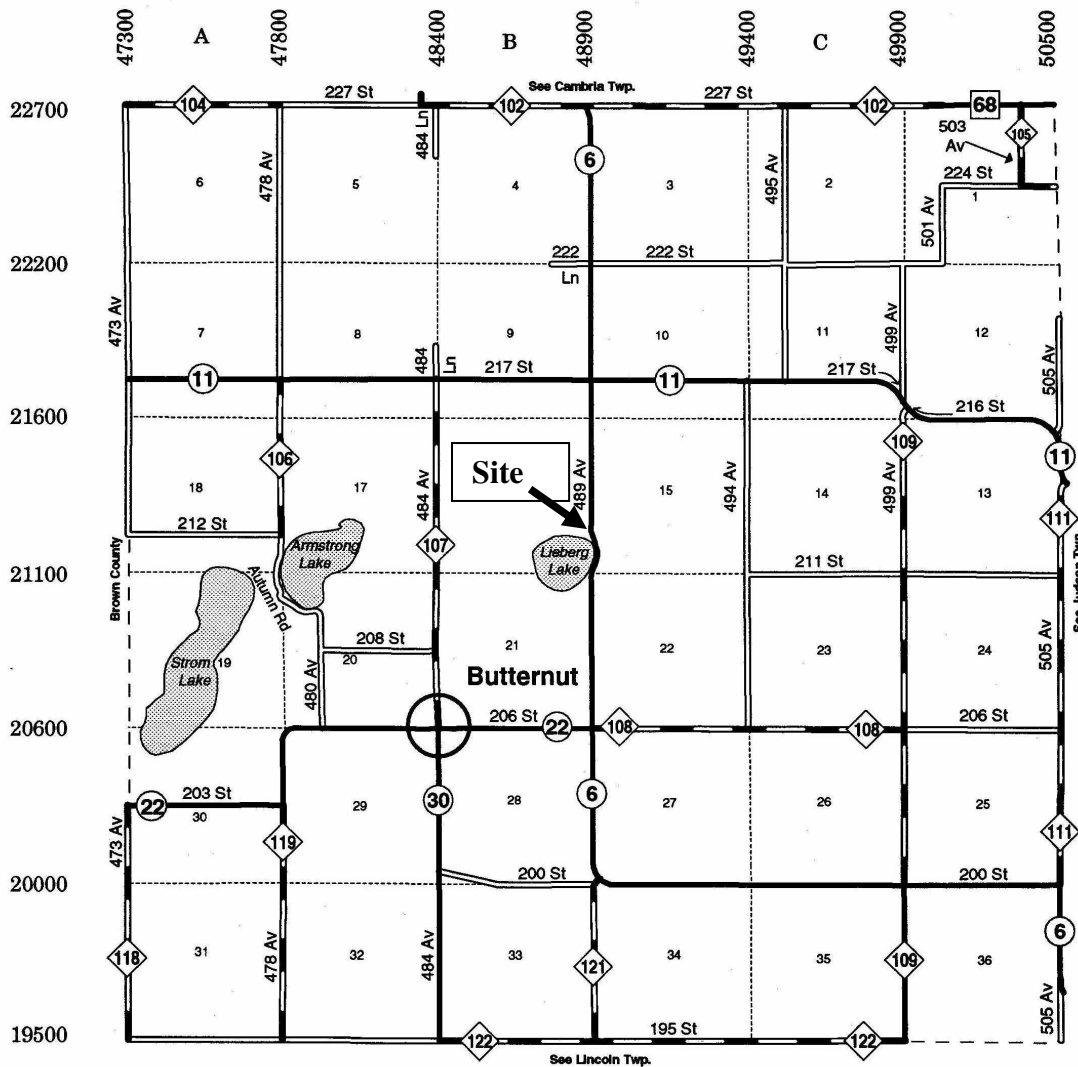
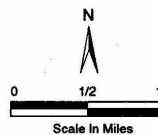
Attachments

- A-1 Site Location
- A-2 Site Map
- A-3 House Photo
- A-4 Applicants Letter of Practical Difficulty
- A-5 Variance Checklist

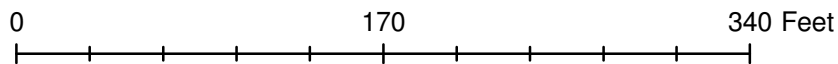
**Attachment A-1
General Location Map**

Butternut Valley

T 108 N - R 29 W



A-2 Tauer Variance



Disclaimer: This map was created using Blue Earth County's GIS and was created for specific internal County uses. It is intended to be used for reference purposes only and does not represent a land survey. No liability is assumed for the accuracy of the data delineated herein, either expressed or implied by Blue Earth County or its employees.



Handship,

House is one-half stories, Want to make full
2 story with Attached Garage. House is existing since 1936.

James Turner 12-5-11

BLUE EARTH COUNTY BOARD OF ADJUSTMENT

**FINDINGS OF FACT
SUPPORTING/DENYING A VARIANCE**

Name of Applicant: Jason Tauer Date: 01/04/2012 Variance Application # BOA 01-12

Parcel # R31.06.16.400.004

A variance may be granted only where the strict enforcement of county zoning controls will result in a practical difficulty. A determination that a "practical difficulty" exists is based upon consideration of the following criteria:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()
Why or why not? _____
2. Without the variance, is the owner deprived of a reasonable use of the property? Yes () No ()
Why or why not? _____
3. Is the alleged practical difficulty due to circumstances unique to this property? Yes () No ()
Why or why not? _____
4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner or previous landowners? Yes () No ()
Why or why not? _____
5. Will the issuance of the variance maintain the essential character of the locality? Yes () No ()
Why or why not? _____
6. Does the alleged practical difficulty involve more than economic considerations? Yes () No ()
Why or why not? _____

Facts supporting the answer to each question, above, are hereby certified to be the Findings of the Board of Adjustment. This is in accordance with _____ of the Blue Earth County Shoreland Management Ordinance.

APPROVED () DENIED ()

DATED: _____
Chairperson, Board of Adjustment