

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: May 21, 2010

MINUTES – (Informational)

The Wright County Board of Adjustment met May 21, 2010 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Bob Schermann, called the meeting to order at 8:30 a.m. with the following Board members present: Schermann, Don Schmidt, Lawrence Bauman and David Wagner. Absent was Nancy Kopff. Barry Rhineberger, Assistant Planner, represented the Planning & Zoning office.

1. CRAIG BOJAN & ASSOCIATES, LLC – New Item

LOCATION: 9800 - 91st Street NW – Lot 9, Block 1, Ransom Ridge, according to plat of record, Section 16, Township 121, Range 27, Wright County, Minnesota. (Clearwater Lake – Corinna Twp.) Tax #206-063-001090 Property owner: Jerpseth

Requests a variance of Section 605.5(3) of the Wright County Zoning Ordinance to build a 6' x 16' living space addition and 12' x 24' garage addition to the main level and a new 1,971 square foot second-story addition to the existing dwelling that is 7' from the side property line at the closest point.

Present: Applicant not present

- A. Rhineberger explained the applicant had not explained the variance request to the Town Board. That meeting is scheduled for the coming week. Applicant requests a continuation to June 4.
- B. Bauman moved to continue the hearing to June 4, 2010 to allow for Town Board review. Schmidt seconded the motion.

VOTE: CARRIED UNANIMOUSLY

2. **NORGREN BUILDERS** – New Item

LOCATION: 14215 68TH Street NW – Lot 5, except the South 34 feet of the Easterly 25 feet, Sylvania Cedars Resort, according to plat of record, Section 34, Township 121, Range 28, Wright Co., MN. (L. Sylvania/Southside Twp.) Tax #217-059-000050 Owner: Kiecker

Requests a variance of Section 404.2, 502.2, 605.5(3) & 612 of the Wright County Zoning Ordinance to build a 668 sq. ft. main level addition (in line with the existing dwelling lakeside) over a walk-out basement 67' from the ordinary high-water mark of lake and 11.5' from the south side lot line at the closest points. Lot is undersized and existing house is 1.9' from the north side lot line at the closest point, and approximately 73' from the ordinary high-water mark of lake.

Present: Rory Norgren; Mary & Jim Kiecker; Phyllis Latour – Township Supervisor

- A. Rhineberger reviewed the 11,507 sq. ft.(undersized) lot on E. Lake Sylvania. The owners have a backlot across the platted road where the sewer is located. This road is public, but not maintained by the Township. The proposed construction for a 668 sq. ft. main level with a walkout basement, 11.5' from the south line and 67' from the ordinary high-water mark of lake. Since the hearing notice was mailed, there have been some revisions made by the applicant that was a recommendation from the Town Board. The length of the addition that was 32' has been reduced. Revised plans were submitted to meet the 15' setback. This may improve the lake setback by 1-2' because of the angle of the shore. The original elevation drawing was provided by the applicant, showing the slope, however, with the revised plans there are no plans to excavate that and the patio doors may have to be moved to the other side. The revisions increase the addition by 60 sq. ft. for a total of 730 sq. ft. They cut back on the deck some. Rhineberger figured that dimension would put lot coverage at 14% and impervious coverage increases to 27%. He noted the survey provided did not show some of the impervious coverage and was not discovered until he visited the site. He reviewed the slides taken to show the house, the impervious coverage as shown in the picture include stairs going down to the lake and decking down by the lake. He spoke briefly with the property owner about this. A patio deck would not require a building permit, however, near the lake and abutting the boathouse changes how that is addressed. The applicant indicates he inquired about a permit. Rhineberger explained this exceeds the total water-oriented structure allowed. The steep slopes and stairs were reviewed and there is a trail that was created with a bobcat and remains open and is subject to erosion. Written comments from neighbor, Johnson, who did not object, but mentioned the coverage and side yard issues should be met.
- B. Wagner asked if Staff had discussions with the owner about the decking. Rhineberger stated he first talked with them after coming back from the site. The original questions regarding the deck near the lake before it was built, he did not recall. But there are a number of determining factors and depending on how the question was posed. A patio not attached to a structure would not require a permit, but attached to the boathouse changes things. Latour asked if the applicant did not have to come to the Town Board or get a building permit for the deck. Rhineberger indicated typically it would not need that, when it is less than 30" in height and

not attached to a building, it is considered a patio. J. Kiecker – stated it abuts the concrete wall. Rhineberger stated if it were bolted to a structure, the building code applies. Latour asked if they would address excavation on the back lot a few years ago. That has not been finished and a self-contained travel trailer was brought in without a variance. How does P & Z want to address this. Rhineberger stated the property lines are not real evident. In developed areas, anything that requires a road setback can be set at the average distance of other structures within 300' as long as it does not encroach any closer than 20' from the edge of the right of way. The hearings on Lake Augusta the Board heard had lake and other setback variances. From what he could tell the travel trailer meets the setbacks that would be required.

- C. Schmidt asked if the impervious coverage could be met. M. Kiecker noted they are pulling the deck in the addition back. Some of what is being counted is where they have plantings under deck. Rhineberger stated that does not matter. He calculated the 735 sq. ft. addition and change to the deck would put the impervious coverage at 26.8%. Schmidt stated the Board holds to 25%. If there are erosion problems, the owners will have to address that. M. Kiecker stated they have the boulders there for the landscaping. Rhineberger stated Staff need to have a drawing and plans to show how much land alteration has been done and will be done. He noted there was work around the deck and patio and the paver portion is shown on the survey. There is a walk from the boathouse to the stairs and then to the house and is included in the impervious coverage calculation. Norgren stated the skid row track is not steep and that would only take some seed or sod to complete. J. Kiecker – stated they placed Class V on that trail. Wagner stated the Class V made it an impervious surface. M. Kiecker asked if they have to sod that path. Rhineberger stated that path has a cut and should be stabilized. He presented a map to show 2' contour lines.
- E. Schermann asked where the road comes down to the lake. The maps were viewed and it was pointed out. Schermann indicated he did not want to go along with this until the applicant's get the impervious into compliance. The applicants should come back with a plan to show how this can be accomplished. Bauman felt the path down to the lake should be restored back to vegetation. Schermann asked if the cabin is 75' from the lake. J. Kiecker – stated it is 73' from the lake. The addition is in line with the front of cabin. J. Kiecker stated he talked with Rhineberger a couple weeks ago and they are in agreement to bringing the coverage down to 25%. He did not realize a plan would have to be presented today. The materials are on site to finish the project. The property has been in the family a long time. Rhineberger calculated 208 sq. ft. of impervious coverage would have to be removed. Schermann indicated he would be willing to agree to the action as long as Staff enforces the 25% coverage. He asked if the travel trailer is legal where it is sitting. J. Kiecker stated they would be moving it back another 10'. Rhineberger displayed pictures of the lot he had taken when he was on site. His best estimate is there is 37' to the edge of the road right of way. There are structures along the platted road that are in the road right of way. His best estimate is the existing location is meeting the setback required.
- F. Bauman would agree as long as the impervious is reduced. He would like to see the path restored to natural vegetation.

- G. Wagner asked how long they have owned the property. M. Kiecker stated her parents had it since 1952 and was transferred in her name in 1994. Wagner apologized for his pointed comments, but he felt there has been a disregard of the shoreland rules. They cannot be on the lake for this amount of time and not realize there are rules. Shoreland is supposed to be kept as natural as possible. They are way beyond what is allowed for water oriented accessory structures. In addition, the lot is less than half a conforming lot. The Board is being asked to address just the cabin expansion, but he is having a tough time overlooking the shoreland aspect. He explained 37' rule limits them to 10 cu. yds. in the shoreland and this is an oversized water oriented structure. He looks at this as a whole project and impervious coverage of 25% is a limit, the Board does not have to give that much. There is no storage/garage on the lot which also concerns him. He felt the impervious coverage should be less on this lot. He suggested the County and landowner bring the lot into conformance and then they consider it. Schermann asked if he was making that a motion.
- H. Wagner moved to delay the hearing until the landowners get the lot into conformance on the impervious coverage. Bauman seconded the motion.

DISCUSSION: Norgren noted the landowners have invested thousands into a sewer that is on the back lot. Wagner agreed that is very positive. In response to a question, he explained within 37' of shoreline you cannot alter more than 10 cu. yds. M. Kiecker stated that was done previously. The boathouse has been there since 1962. J. Kiecker explained he went to the County to see if he needed a permit for the patio and was told he did not. Wagner – the additional deck doubled the size of the water-oriented structure. J. Kiecker stated the neighbor has a boathouse only 5' off the line and on the water. Wagner indicated they have to enforce the shoreline rules somewhere along the line. The water-oriented structure is limited to 400 sq. ft. and must be 10' from the lake and side line. Norgren noted you would need to excavate more than 10 cu. yds to build a boathouse. Rhineberger noted there was a variance that allowed a neighbors' construction. He could not speak to the excavation, but a building permit covers normal excavation for the structure. Patios around a boathouse have other considerations, but if someone asks if they can have a patio we would check how high above grade and state it cannot be attached. He noted he does not know what was asked and many people work the front counter.

VOTE: Wagner and Bauman in favor; voting nay: Schermann and Schmidt
MOTION FAILED

- I. Schermann felt they would need to hold the hearing over for a full Board. Rhineberger suggested since there are questions about what is there, they make a site inspection. M. Kiecker asked if they agree to bring the impervious coverage down could approval be contingent. Schermann felt a subsequent motion would not pass. J. Kiecker felt they could get the path taken care of. Rhineberger suggested they work on some of the issues. The Board cannot see the grade from the pictures. Wagner stated to him, this is a concept, size of lot and what was done to the shoreline. With the pictures and description he would not have to see the site. Schermann felt it might be beneficial and Kopff who was not present might like to see it. Rhineberger stated he needs a plan for the land alteration portion. The patio would have to be

considered by the Board. Wagner stated his motion did not deal with the deck. He is charged with making a determination on practical difficulty and is not an enforcement officer. He found it difficult to rule on the cabin addition without looking at what has happened on the shoreline. He would like to see some resolution or compromise between the owner and County. Rhineberger stated Staff cannot administratively allow overage limits or something closer. The owner can apply for anything and variance is up to this Board to make the decision. Wagner asked how Staff handles a violation. Rhineberger they notify the owners and they have the option of applying for variances.

- J. Bauman moved to continue the hearing to June 4, 2010 for a site inspection and full Board. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **MIKE FORSTIE** – New Item

LOCATION: 16144 20TH Street SW – Part of SE 1/4 of SE 1/4, Section 8, Township 119, Range 28, Wright County, MN.(Cokato Twp.) Tax #205-000-084403 Owner: Cokato Laestadian Lutheran Church

Requests a variance of Section 502.2 & 604.5(1)(a) of the Wright County Zoning Ordinance to allow a new structure (church) with a height of 40.25 feet.

Present: Mike Forstie

- A. Rhineberger – presented schematic plans to show the proposed church construction. The variance requested is for the height of 40.25’ from the grade. In 2009 the Planning Commission had the hearing to address the use of the property. Plans were submitted for the building permit and the height was determined to be in excess of the maximum 35’ allowed. The cross section of the building was viewed. The Ordinance does exempt church spires, but the Board is considering the height to the roof. Town Board approval was received and no neighbors responded.
- B. Schermann noted in general, churches have higher ceilings and he would see no problem allowing this. Bauman agreed, the appearance is typical of how churches are built. Wagner did not object, but noted the congregation could have saved themselves \$400 in hearing fees if they had re-designed this. Schmidt noted variances are granted for unique situations.
- C. Schmidt moved to grant a variance to construct a church structure with a height of 40.25’, Wagner seconded the motion.

At Rhineberger’s suggestion based on the discussion, Schmidt added reasons are uniqueness of the church and there are lack of standards for churches, unlike for garages and other structures. Wagner amended his second.

VOTE: CARRIED UNANIMOUSLY

4. **PATRICK R. CARLSON** – New Item

LOCATION: 1488 40th Street SW - W 1/2 of the SE ¼, Section 23, Township 119, Range 26, Wright County, Minnesota. (Marysville Twp.) Tax #211-000-234102 & -2341300
Property owners: Ronald Wayne Carlson Testamentary Trust & Applicant

Requests a variance of Section 502.2, 604.2 & 604.6(4) of the Wright County Zoning Ordinance to divide off a five acre residential lot that includes more than 2.5 acres of tillable land, as a “1 per 40” entitlement division Also a lot line adjustment to add the west 30 acres to an existing ten acre residential lot (tax #211-000-234300) owned by Patrick & Mandi Carlson, leaving a restricted 35 acre ag parcel.

Present: Pat Carlson

- A. Rhineberger displayed a map to show the property fronts County Road 107. The proposed division is a result of estate planning. The Ron Carlson estate includes two short 40’s. The proposal is to add the west half (30 acres) to the applicant’s ten acre residential lot; a five-acre entitlement division that includes more than 2.5 acres tillable; and leaves 35 acres restricted. The 35 acres has 240’ on the road, less than 300’ of frontage required, would go to Pat’s sister who owns property down the road. Letter from Wright County Soil & Water Conservation District (SWCD) addresses a wetland problem at the approach location the applicant has been working on.
- B. P. Carlson explained they would like to use the existing driveway approach for both properties. Rhineberger informed Carlson a new permit from the County Highway Department is required because there is a change in use.
- C. Bauman felt the proposal appears to be the best way to split this. The Board has often allowed divisions of quarter-quarter sections the long way.
- D. Wagner agreed and noted the applicant has spent time and money on the access.
- E. Rhineberger noted there is not a good way to split the tillable because of the ditches and creeks that break up the property. He did not see a way to split the farm in a conforming fashion. Bauman agreed the creek makes this unique. Rhineberger noted there may be other options, but he did not think the request is unreasonable.
- F. Schmidt agreed this approach follows common sense. He can support the adjustment.
- G. Wagner moved to approve a variance to allow a five-acre residential lot that includes more than 2.5 acres tillable land. Also, grant a lot line adjustment to add the west 30 acres to an existing 10-acre residential lot (tax #211-000-234300) that will leave a remainder of 35 acres that will be a restricted ag parcel. Reason: Character of the land was considered. Condition: The applicant apply for a change in use permit with the County Highway Department and all wetland issues be addressed to the satisfaction of the Wright County Soil & Water Conservation District. Schermann seconded the motion.VOTE: CARRIED UNANIMOUSLY

5. **GEORGE McALPINE & MARTIN McALPINE** – New Item

LOCATION: xxxx 35th Street NE – NE 1/4, except the east 50 acres of the NE 1/4, ll, Section 18, & East 98.71 acres of the NW 1/4, Section 18, also Part of W 1/2 of SE 1/4, Section 7, all in Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-181200 & -182400 & -074300 OWNERS: Martin & Ardelle McAlpine

Requests a variance as regulated in Section 502.2 & 604.6(3) & (6) of the Wright County Zoning Ordinance to allow a division of the east half of existing 52 acre parcel with a residential building entitlement, includes more than 2.5 acres of tillable ground and will have less than 300' wide on a public road. Balance of parcel to be owned with the Martin & Ardelle McAlpine property that lies to the west (tax #202-000-182400). Also, an appeal of Administrator's decision that the remainder does not have a residential building entitlement.

Present: George & Betty McAlpine

- A. Rhineberger reviewed the location in Section 18, and a small sliver in Section 7, that is part of the access strip. This property was reviewed, in 1994 a variance to sell 20 acres to Davis Construction was allowed. In exchange for this sale, Davis transferred a 66' strip for access on the north end of the property to Braddock Avenue. Subsequent to that action, in 2004 the south 30 acres with frontage on the county road, was annexed into the City of Buffalo and is now the St. Francis Xavier Education Center. The proposal is to divide the remaining acreage (52 acres) in half, with the west half to be attached to Martin and Ardelle McAlpine farm to the west which has road access through their property. The east half of the acreage would have the 66' access strip to Braddock Avenue where George will build his house. Rhineberger reviewed the second half of the request is to determine entitlements. Looking at the acreage prior to the annexation, there were two entitlements. However, the determination now does not figure in acreage that was annexed, but what the property owner owns which gives the owners one entitlement. If the 30 acres were still part of the property there would be two entitlements.
- B. G. McAlpine stated there were two entitlements as was stated in the 1994 hearing. Wagner noted after 1994 land was annexed. Schermann noted that annexation does not necessarily mean the entitlement went with it. Rhineberger – that action takes land from the farm and does not require approval from the County. Bauman felt if there were two before and none were used, there should still be two. Schmidt – if they would have moved that entitlement, or put it in someone else's name, it would still be there. He did not agree with the analogy that if they annexed part, it would take it away. Rhineberger – the ramifications of that analogy are far reaching than this 52 acres. In addition, this property only has 66' on a road. Entitlements are a calculation. The Zoning Administrator looked at this to see if a determination or Deed Restriction was done or approved by the County, if it were the second entitlement could be used at any time.
- C. G. McAlpine asked if an entitlement was taken away, why they were not notified. Cannot add land for an entitlement without notification. He felt that would be unusual. Schmidt felt the

applicant would have taken some action if he would have known. G. McAlpine – because of the discussion in 1994 before the Board of Adjustment, they felt they have two. Schmidt –as far as the road frontage, the variance was granted for 66'. Rhineberger noted there is only 66' feet, but they had adequate frontage when the parcel was on the County Road. Schermann noted the Board has allowed access strips for entitlements or for back forties many times.. Rhineberger agreed they are saying one entitlement on the 52 acres with the 66', the question is whether there is a second entitlement.

- D. G. McAlpine stated they would like an entitlement to go with the split and access strip where he will build his house. They did not think they had lost the second entitlement because they did not use it.
- E. Schmidt felt the Board needs to first address the 26-acre split where they plan to build the new house. He did not have an objection with the proposed division because the soils are not prime farmland. This is all gravel as can be seen by the pit to the east and across the road. As far as the second entitlement, he did not think the City cares when the annexation takes place and if the owners would have been aware, they would have taken the necessary steps to protect it. Schermann agreed if there were two they should still have the entitlements and agrees the division involves marginal farmland. Bauman concurred with the Schmidt and Schermann. Wagner agreed to support favorable action.
- F. Schmidt moved to grant a division with an entitlement to include more than 2.5 acre tillable land with less than 300' of public road frontage. The access strip is 66' wide that provides access to the road. Board disagrees with the zoning administrator's decision and will recognize there is a second residential entitlement that will go with the west 26 acres that will be attached to the Martin and Ardelle McAlpine farm to the west Tax #202-000-182400. Condition: Property owners sign the appropriate Administrative Order and Deed Restrictions. Schermann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

MINUTES

On a motion by Wagner to approve the minutes for the May 7, 2010 meeting as printed. Schmidt seconded the motion.

SITE INSEPCION

Site inspection was scheduled for Friday, May 28, 2010. Board members to meet at the Public Works Bldg. at 8:30 a.m. Wagner to meet the Board at the site.

Meeting adjourned at 9:35 a.m.

Respectfully submitted,

Barry J. Rhineberger
Assistant Planner

BJR:tp

Cc: Board of Adjustment
County Board
Zins
Twp. Clerks