

**WRIGHT COUNTY BOARD OF ADJUSTMENT**

**Meeting of: June 4, 2010**

**MINUTES – (Informational)**

The Wright County Board of Adjustment met June 4, 2010 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Bob Schermann called the meeting to order at 8:30 a.m. with all Board members present. Barry Rhineberger, Assistant Planner, represented the Planning & Zoning Office. Tom Zins, Assistant Attorney was legal counsel present.

1. **SAMUEL T. SCOTT** – Cont. from 4/16/10

LOCATION: 10753 Grover Avenue SW – Lot 47, Terra Teresa, according to plat of record; and also Part of Gov't Lots 1 & 2 and part of the NE 1/4 of SE 1/4, Section 25, Township 118, Range 27, Wright County, Minnesota. (Victor Twp.) Tax #219-016-000470 & 219-000-254105

Requests an interpretation of Section 404 & 502.2 of the Wright County Zoning Ordinance as to whether the building entitlement currently used on lakeside (platted lot of record) can be transferred to the vacant back parcel that lies to the northeast (7 acres approved in 2006 to give the applicant property to build a storage building).

Present: Applicant not present

- A. Rhineberger stated he recently left a message, but has not heard from the applicant since the April hearing. He cannot report on the applicant's intentions. Schermann stated the Chairman of the Town Board stated the applicant did not attend their meeting. Rhineberger stated the original recommendation was rescinded by the Town Board.
- B. Wagner moved to close the public hearing and direct Staff to draft tentative findings for denial of the variance request, based upon the record compiled to date. Board notes that the Board's discussion today does not constitute an approval or denial of the request, nor is the discussion a final evaluation of the record. Based upon the discussion to date, direct Staff to prepare proposed findings to present to the Board on June 25, 2010 for their deliberation. The Board will make a final evaluation of the record and a final statement of its reasoning, with findings, to approve or deny the request, at that time. Kopff seconded the motion

VOTE: CARRIED UNANIMOUSLY

2. **NORGREN BUILDERS** – Cont. from 5/21/10

LOCATION: 14215 68<sup>TH</sup> Street NW – Lot 5, except the South 34 feet of the Easterly 25 feet, Sylvia Cedars Resort, according to plat of record, Section 34, Township 121, Range 28, Wright County, Minnesota. (L. Sylvia – 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 and property owner: Mary Kiecker and her son Pat Kiecker

- A. Rhineberger reviewed the discussion at the May 25, meeting. Revised plans were submitted by the builder. The Board members made a site inspection to see what conditions might be needed. Staff and applicant are looking for direction from the Board.
- B. Wagner – indicated his opinion is that it is hard to consider the new addition and ignore the violation with the water-oriented structure. The boathouse is huge and the recent expansion of that structure near the lake. He could not approve new construction until something is done with the water-oriented structure.
- C. Bauman was in agreement with Wagner, and wanted to see that brought into conformity. Schermann concurred with those sentiments and he wanted the road giving access to the lake restored to exactly how it was and more than just black dirt. He referred to the Board policy that requires an applicant address the violations first and bring the property back into compliance before they consider a variance.
- D. Schmidt agreed, because the work was not approved. The water-oriented structure exceeds what is allowed and should be brought into compliance.
- E. Rhineberger stated he did not measure the patio-deck when he first visited the site. When the Board was on site inspection the height was found to be 33-36", which exceeds the 30" allowed for a patio and requires a building permit. The other problem is that the maximum water-oriented structure is 400 sq. ft. and only one is allowed. The boathouse is 470 sq. ft. The Board's concern about the road down the hill is because of a potential erosion problem and if a land alteration permit is required. Schermann's impression was that this was a cut into the property.
- F. Mary Kiecker – explained steps had been there since the 1960's. A picture taken in 1968 was provided to show that a path down to the lake has always been there. When they moved the cinder blocks some Class V material was brought in for an area to set the bobcat.
- G. Pat Kiecker – explained they did not try to skirt the rules and his brother had stopped by the

Planning & Zoning office to ask about the platform and was told he did not need a permit. He stated there were areas that the dirt was pushed back for flowers to be planted, but the platform was built to follow the hill and be no more than 30” in height when complete. Schermann indicated the Board can only address what is there and felt it was a blatant disregard for the lake. The Board would like this rectified and then the Board can look at the variance for the building. He for one, would require the path be re-vegetated. M. Kiecker indicated they are putting in wildflowers and a boulder barrier.

- H. Wagner explained this is a citizen Board and they do not create or enforce Ordinances. He finds enforcement difficult and what is before them is a policy decision; and, until they come to the Board with a whole request they don't have to make a decision. P. Kiecker – stated he wanted to address the comment made that this was a “blatant” disregard for the law. Schermann noted the violation is there and has to be corrected before they go forward. Kiecker – questioned if they are suggesting the decks be removed. Schermann indicated that was right, they are allowed a walkway down to the lake. Rhineberger explained the Ordinance allows for steps down to the lake with a maximum landing of 32 sq. ft. He asked for clarification. One remedy is a variance for the platform or is the Board of a mind they are not going to allow the platform. Schermann understood the applicant is willing to remove the platform. Wagner, stated for one he would not allow the platform. Schmidt agreed it is too much. M. Kiecker – asked if they remove the platform can they keep the pavers. The platform would bring the impervious coverage down. In response to Mary's question on the pavers, Rhineberger stated if the walkway down to the lake and pavers were pre-existing, they could stay. The figures indicate the patio measures 304 sq. ft. and overage is 204 sq. ft. P. Kiecker asked how much time they would be given. Wagner felt if they could get an agreement from the owners, he felt they could take action and set the conditions. M. Kiecker indicated that is her preference rather than delaying this. Kopff concurred there would be no reason to delay if Staff can inspect to make sure it is brought into compliance.
- I. Zins indicated approval can be contingent, however, the Board does lose “the hammer”. He questioned the time frame . The owners have to understand, that under the current conditions it would be denied and they could sign a waiver for an extension on the time frame for a decision. Rhineberger reviewed the time they have for a decision does not run out until end of August. Rhineberger felt Staff can accommodate contingent action by withholding building permits until the property is brought into compliance. Wagner would agree in this case, noting the applicants have been before the Board twice. They need discussion on the addition above.
- J. Schermann questioned the direction the Board wanted to take;. He was of the opinion that they wanted to follow policy and require the applicant to bring the property into compliance before they issued the variance. He questioned the wishes of the majority and thought they would be discussing when to continue this matter to.
- K. Wagner stated he agreed they were going to delay, but clarified what he was suggesting is if the applicant is volunteering to correct this; for their convenience, he would consider the variances. M. Kiecker stated they volunteered removal and had started taking up pavers. Rhineberger stated he advised the applicants not to take any remedial action on the non-

conforming structure, or remove pavers until they know how the Board wants to address this. If the patio is taken up, they may be able to keep the pavers. Bauman agreed to proceed if the applicant is willing to comply.

- L. Zins asked the Kieckers if they fully understand what the Board is asking of them and can get this done by August? Mary Kiecker answered yes to both questions. Zins stated that in that case, he has no objection to a contingent motion.
- M. Schmidt stated he would agree as long as the motion includes a condition that the building permit cannot be issued until the violations are corrected.
- N. Schermann indicated if that is the consensus of the Board the variances are on the floor for discussion. The addition proposed is a 668 sq. ft. main level addition and the Town Board had asked the 15' side yard setback be met. M. Kiecker stated the building plans were redrawn to address the setback. Schermann indicated a motion should include the reduction of impervious coverage to 25% or less.
- O. Kopff asked if the sewer system is a performance system. Rhineberger stated it is not and is located across the road.
- P. Rhineberger stated the architect did not show the side slope on the schematic, but he is told they would not excavate the slope on the lakeside as shown on the first plan. Kopff asked about the height of the roof and impact. Also, would they be moving the patio doors? M. Kiecker stated the cabin cannot be seen from the lake. P. Kiecker indicated the patio doors would be moved to the south side. Kopff summarized the Board action would require removal of the patio next to the boathouse and changes made to the slope will have to be repaired. M. Kiecker explained there was a cinder block wall, and they could cut off the walkway. Stairs could be slid back to the original location. Kopff emphasized the requirement would be the deck/patio has to be removed and the slope stabilized. Wagner added that the side yard would have to be met and wants it noted the lot has been maxed out and no further development will be allowed. There is no garage on the lot, and he wanted the owners to realize they could not come back to get approval for one. He is willing to overlook the fact there is no garage, because the applicant owns a back lot where they have room to park.
- Q. P. Kiecker asked if he could get a clear definition of what impervious coverage includes. Rhineberger referred to Section 302 which is available on line.
- R. Bauman agreed with Wagner's reference to the lot coverage and wanted to see a reduction. Schmidt indicated he is in agreement with the Board's comments. Schermann added that he would want the road to the lake re-vegetated. Bauman indicated they don't want this accessible to motorized vehicles. Rhineberger estimates with the modifications requested, coverage by buildings will be 14.2%.
- S. Wagner moved to approve the revised plans submitted May 21, labeled Exhibit "A", for a 730 sq. ft. addition over a walkout basement. Addition to be no closer than 15' from the south side lot line and 68' from the ordinary high-water mark of lake. Conditions: 1) Existing water-

oriented structure that is the deck/platform must be modified to conform to the Ordinance and necessary action be taken and maintained to address erosion control on the path that goes to the shore; 2) no building permits are to be issued until the pathway and decking have been approved by Staff; and 3) No further development is allowed on the lot and impervious coverage cannot exceed 25%. Schmidt seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **CRAIG BOJAN & ASSOCIATES, LLC** – New Item

LOCATION: 9800 - 91<sup>st</sup> 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: Craig Bojan and property owner: Keith Jerpseth

- A. Rhineberger reviewed the 30,190 sq. ft. lot and bluff conditions. The applicant has been before the Planning Commission for changes to the bluff to help with erosion problems. The request before the Board is to remove the existing dwelling and rebuild on the existing floor trusses/foundation that is a walkout. New construction includes main floor, a second story over the entire structure, a 12' x 24' bump-out on the road side and a 6' x 16' living space addition on the main level next to the garage. Rhineberger asked about the screen porch lakeside that was mentioned by the Town Board. The porch above the existing porch was crossed off and he wants to be sure that is not being built. Bojan indicated they are only replacing the existing screen porch and the deck would no longer be there. Rhineberger indicated the setbacks would be the same as what exists, 9.2' from the corner of the house to the bluff. A couple small sheds at the northwest corner of the house will be removed and the 7' setback from the closest corner of the house exists. The road setback can be met and the new construction walls are at the current setbacks on the lakeside and side. There are two water oriented structures and a ground level patio. The patio and steps are not attached but exceed the size limit. This is the third structure and exceeds 400 sq. ft. This was not noticed for and the applicant would have to address this before construction or continue it for Board action. Town Board recommends the platform be removed.
- B. Schmidt asked if a picture of the neighbor's homes were available. He was concerned if this would fit the neighborhood. Rhineberger indicated with leaf-on conditions it was difficult to get pictures from the lakeside. Many of the homes are story or story-half over walkout basements. The lots in this area are larger than most and he did not think the design is out of character. A new sewer is part of the project. Township Planning Commission asked that a qualified professional give an opinion on whether the foundation would support a second story and would not further impact the bluff. Wright County Soil & Water have recommendations on the post footings and erosion/sediment control measures are installed and maintained.
- C. Bojan indicated they are willing to remove the third water-oriented structure (deck).
- D. Bauman indicated the policy on over-building is that they bring this into compliance. Schmidt felt considering the last item before them, they could approve with conditions. As far

as the proposed construction, he felt it was very large and a 7' setback is very close; however, the size of the lot makes this different and the 7' setback already exists.

- E. Kopff asked several questions on whether any vegetation would change and the direction of the walkout. Rhineberger noted the walkout is lakeside, screen porch comes off the main level lakeside Jerpseth stated no vegetation would change. Using the picture of the house he noted the location of the existing screen porch with the house behind.
- F. Schmidt questioned the integrity of the existing foundation. Rhineberger indicated the County Building Inspector would not be looking at this because it is in Corinna who would inspect. Jerpseth agreed they would submit this to their building inspector and make sure the foundation can carry the load. Kopff stated this makes a difference because if the foundation has to be changed, she would like the structure moved. Bojan indicated they would not be changing the foundation. Jerpseth stated they are removing a stairwell and sheds and getting it back to 7'.
- G. Rhineberger explained by any terms, this construction is considered new and if the foundation is not stable or needs changes, the feeling of the Board is that it should meet all setbacks. The comments would indicate the Board is fine with going straight up on the existing foundation. Kopff agreed and Schmidt indicated that summarization is correct.
- H. Wagner clarifying his position on the policy and conditions, as discussed with the previous case, is that if they can reach an agreement and place conditions on this they can move forward. Schermann felt they might as well throw out the policy. He emphasized the need to stay consistent. Wagner felt the fact the applicant has agreed to take corrective action rather than the Board mandating something happen is the difference. Schermann added, that he had thought the Board agreed they would not take action until the violations were removed. Wagner indicated he was trying to clarify his statement, but would not vote on this petition because he would not want the fact he knows the applicant to be construed as a conflict of interest. He noted this structure is high on a hill and questioned if the height of the proposed house would tower over the neighbor. Jerpseth stated he reviewed the survey and house plans with the neighbor directly affected and they do not have a problem. This will not block any views as their structure is in line. The sites are heavily wooded. He noted there is a flat roof on the existing structure and the adjacent home is a story and a half over a walkout.
- I. Kopff stated the expansion is significant at a 7' side setback. Jerpseth agreed if they had to start over with a new foundation. Wagner asked if there is not an opportunity to move it toward the west. Jerpseth stated that is where the sewer is proposed. Wagner stated he has not supported a 7' setback in the past and is why he questioned the towering affect. Rhineberger felt considering the size lots and homes in the area, he did not think it does.
- J. Bauman had concerns about this and noted a similar request last year, he felt they should hold off until things return the way they are supposed to be. Schmidt felt there are many variables with this request. He asked if the applicant is willing to remove the deck. Bojan and Jerpseth nodded their agreement. Schmidt indicated he was not willing to go along with this.

Schermann wanted verification that the foundation is adequate. Bojan he assumes it is adequate and explained construction techniques, with the use of beams he can disburse the weight, if needed. Schermann was in agreement with Kopff that if the construction requires new foundation walls the house should be redesigned and moved back.

- K. Rhineberger reviewed the Board's authority and the law allows them to deny expansion at 7'. The structure is non-conforming, what they are requesting is not replacement but is expansion. He clarified that he is not suggesting this, but is an option.
- L. Kopff stated if they are keeping the foundation to maintain the setback that is not a good reason for a variance on this size lot. She was not saying this applicant is not being straightforward, but the Board has seen requests and later it was determined the project needs new walls/foundation. Bojan stated the basement is completely finished and there is much value in keeping that. Foundation is in great shape, no cracks. Bauman asked the type of soils in the area. Jerpseth– stated from what he has seen there is a clay layer over sand. He feels he has a good foundation. Schmidt felt they need confirmation before they decide. Rhineberger noted they would need that before construction. Schermann and Kopff– felt the Board needs to know this before they make a decision because it makes a difference on consideration of a 7' setback. In response to Schermann's question. Kopff indicated she would not be totally against allowing them to go up on 7', but confirmation on the foundation would make a difference.
- M. Schermann moved to continue the hearing to June 25, 2010 for verification from the building inspector on what the existing foundation can support. Schmidt seconded the motion.

DISCUSSION: Jerpseth – asked about the Board's discussion on the deck and if that has to be removed before a decision. Schermann suggested the applicant wait until June 25 and they talk about it. He felt the deck would have to come out regardless. Jerpseth did not want a decision delayed because the deck has not been removed. Bauman felt the deck should be taken out before they consider this. Kopff noted what happened with the other item, is they tried to accommodate the applicant who had been before them twice. Removal was made contingent on building permits being held up until it was done. In this case, she felt the applicant can start the removal process.

Schermann amended his motion to require the applicant to start the removal of the deck prior to June 25. Schmidt amended his second.

Kopff asked if the applicant is not quite done with the removal of the deck, would the Board take action on the addition. Schermann agreed they could if they see progress is being made.

VOTE: CARRIED UNANIMOUSLY

4. **KATHERINE L. GRUYS** – New Item

LOCATION: 10461 Hollister Avenue NW – Part of Gov't Lots 3 & 4, Section 11, Township 121, Range 27, Wright County, MN. (Sugar Lake/Corinna Twp.) Tax #206-000-114207

Requests a variance of Section 502.2 & 612 of the Wright County Zoning Ordinance to build a 12' x 18' deck with a pergola above over existing concrete slab and 8'3" x 17'11" trellis, all lakeside of the existing house, approximately 70' from the lake.

Present: Bob Gruys

- A. Rhineberger reviewed the proposed construction. Pictures of the lakeside of the dwelling were taken to show the area where the deck, pergola and trellis would be built that extends over an existing cement slab. The proposal is in line, but gets a little closer to the lake because of the angle of the lake. His best estimate is this will be 70' from the lake. Because the lot is seven acres he did not require a survey. The elevation of Sugar Lake does not fluctuate much. Favorable responses from Smith and the Town Board were received. The Township recommends a vegetative buffer, erosion control measures be taken and a rain garden established within 75' of the lake. See responses on file.
- B. Gruys – used the photo to point out the existing patio and a header that was put in a while back. The project is an attempt to beautify this side of the house.
- C. Schmidt had no objection since it would go over the existing slab. Kopff agreed, noting it lines up with the house lines. Wagner and Bauman agreed it is reasonable.
- D. Schmidt moved to approve the request for a 12' x 18' deck with a pergola above existing concrete slab and 8'3" x 17'11" trellis, all lakeside of the existing house, approximately 70' from the lake. Reasons: Proposed deck is over existing concrete and does not extend towards the lake any closer than the existing structure. Bauman seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **JEAN M. JUST** – New Item

LOCATION: 9971 120<sup>TH</sup> Street NW – Lot 3, Block 1, Bass Lake Resort, according to plat of record, Sections 32 & 33, Township 122, Range 27, Wright County, Minnesota. (Bass Lake - Clearwater Twp.) Tax #204-134-001030 & -001031 Property owner: Jack & Marjorie Stuhr

Requests a variance of Section 405.2, 502.2 & 612 of the Wright County Zoning Ordinance to replace existing one-level structure with a new dwelling with the same footprint, but to include a loft area. New dwelling will be no closer to the lake than the existing structure at 57.3' to the ordinary high-water mark of lake.

Present: Jean Just & Marge Stuhr

- A. Rhineberger reviewed plans to show the new construction over existing foundation. The existing home is one-level and the proposed is one level with a 360 sq. ft. loft. The sewer is to be replaced with a standard mound. A drawing to show what the home would look like was presented. The existing home has a slanted roof that is higher on the lakeside. A deck off the loft is 10' x 24' and a 4' x 5' covered entry were noted. Town Board approval and positive comments were received from a neighbor.
- B. Just stated currently the structure has a roof that is leaking. They had a contractor, Norgren, inspect the foundation and he found it is adequate to support new construction. They plan to fill in and make the basement a crawl space.
- C. Kopff asked if the house to the northwest is two-story. J. Just stated it is one-story with a vaulted ceiling. Kopff asked about the homes in the other direction. Rhineberger indicated that is a new three-lot plat and there is no home on that lot. Kopff questioned sight lines. She has similar concerns as the earlier items on the agenda. If the foundation has to be improved, she would have concerns about a 57.3' lake setback variance, especially with a future home on the new lot that would have to meet the setback. Otherwise, the house plan seems reasonable. Rhineberger indicated when he visited the site he did not find any cracks in the foundation, looks solid but not sure what new construction practices require.
- D. Schermann asked if they could have the building inspector check it.
- E. Wagner indicated he has the same concern and the applicant should come back with information to prove it. He asked about the driveway on the lakeside and if it should be restored with vegetation. Rhineberger - explained in this case a driveway comes around the front of the house. The new plan has a single-stall garage on the other end. The recommendations made by the Township relate to water quality and erosion. Just & Stuhr explained the drive to the front door would no longer be needed and come out. Bauman questioned impervious coverage, it appears like there is a lot. Schmidt asked when the structure was built, age of foundation. Stuhr estimated 1949. Rhineberger noted the Assessor's notes indicate it was built in 1910. Schmidt felt because of the age makes it

questionable. If it has to be redone, they should move the structure back. Just stated the problem with moving it back is the wetland behind.

- F. Kopff asked if the sewer design has been completed. Rhineberger stated that is what the site plan is from. He was not sure if there is another location for the sewer.
- G. Schmidt cautioned the applicant about new construction on a foundation this old. Just explained that is why they are filling it in. They do not use the basement because it is below water level. Schermann suggested they get the building inspector out here. Rhineberger suggested another option is to see if Norgren would put his signature on it.
- H. Schermann moved to continue the hearing to June 25, 2010 for an inspection of the foundation by the Building Inspector. Kopff seconded the motion.

VOTE: CARRIED UNANIMOUSLY

6. **ALAN L. MACKERETH** – New Item

LOCATION: 257 & 281 - 102<sup>ND</sup> Street NE – Lot 17, 18 & 19, Birch Lake Beach, according to plat of record, Section 7, Township 121, Range 25, Wright County, Minnesota. (Birch Lake – Monticello Twp.) Tax #213-112-000170, -000180 & -000190 Property owners: Breslawec & Mackereth

Requests a lot line adjustment to split Lot 18 between two adjacent residential sites by adding 25 feet from Lot 18 to Lot 19 and 50 feet from Lot 18 to Lot 17 as regulated in Section 502.2 & 605 & 612 of the Wright County Zoning Ordinance.

Present: Al Mackereth

- A. Rhineberger reviewed the original division line to separate the lot equally between the two adjacent parcels. Part of the paperwork to complete the sale is the “Point of Sale” sewer certification. The owner is getting a sewer designed and will need to go deeper into Lot 18 for the new sewer to maintain a 10’ side setback. The applicant will get additional land and the remainder would go with Lot 19. He explained there are two saleable parcels, the lot in the middle would have to go with one or the other. He felt it makes sense to separate this lot between the two that have cabins. Town Board approves.
- B. Mackereth explained this division would prevent another potential building lot and improve the lake.
- C. Wagner supports the proposal because it makes two conforming lots. Bauman agreed. Schermann felt anytime they can increase lots, it is an improvement.
- D. Wagner moved to allow a lot line adjustment to divide Lot 18 as present and submitted, marked “Exhibit A”. The west portion to be added to Lot 19 as one contiguous lot and the east portion to be added to Lot 17 as one contiguous lot. Condition: Subject to survey and administrative orders filed with Wright County Planning and Zoning. Schermann seconded the motion.

DISCUSSION: Rhineberger suggested an Administrative Order may not be needed if the Auditor can combine tax statements.

VOTE: CARRIED UNANIMOUSLY

7. **PETER J. GUNNARY** – New Item

LOCATION: 12384 County Road 37 NW – S 1/2 of NE 1/4 and N 1/2 of SE 1/4, except ...; also, NE 1/4 of SW 1/4, north of road and E 1/2 of NW 1/4, Section 13, Township 120, Range 28; also, 17.10 acres lying in the NW 1/4 of SW 1/4, Section 18, Township 120, Range 27, Wright County, Minnesota. (French Lake & Albion Townships) Tax #209-000-131301 & -131300; Owner: applicant, Emil & Joseph Gunnary; 201-000-183200  
Property owners: Contract seller, Alama to Gunnary

Requests a review and determination of proposed divisions of the farm as regulated in Section 502.2 & 604.6 of the Wright County Zoning Ordinance. Proposed is a transfer of a “residential entitlement” from the 17 acre tax parcel #201-000-183200 to tax #209-000-131301 and transfer title of the 17 acre parcel, tax #201-000-183200, back to Alama. Proposed divisions of the farm include 8-10 acre lot with an existing house (built in 1977 on the west side ); a division of approximately 49 acres with the original farmstead dwelling; and a third residential lot to be 6-7.25 acres where the entitlement would be used to build a new home. The remainder would include approximately 83 acres and be restricted agricultural land.

Present: Peter & Emil Gunnary

- A. Rhineberger outlined the original 190 acre Gunnary farm with residential eligibilities. Most of the farm is in French Lake Township, with a separate 17 acre lot in Albion Township. The 17-18 acre parcel was part of the original Lantto farm sold at auction. Alama bought the 17 acres at auction and then sold it on a contract for deed to Gunnary. After the auction, the Deed Restrictions were not filed assigning entitlements. Staff were only given an auction bill. Rhineberger described a portion of the farm lying to the south of the farmstead that was also sold off. Attorney Tim Young has indicated the parties are willing to sign the Deed Restriction and he is working on getting the signatures. The proposal is to use the entitlement being purchased with the 17-18 acre parcel and move it. The proposed divisions of the Gunnary farm include the existing house on 8-10 acres that has not yet been deeded out, but approved with a Deed Restriction; existing farmstead on 49-50 acres; a new six acre building lot that has more than 2.5 acres of tillable land and remaining 83 acres to be restricted.
- B. Zins questioned how the 17-18 acres obtained a building eligibility. Rhineberger explained it has always been part of the Lantto farm and touches at the corner across the road. It cannot be recognized until the proper Deed Restriction is filed.
- C. Schmidt asked the reason for creating the 83 acre parcel. P. Gunnary explained three brothers own the land together and need to separate the land so they can get individual title and their homes. Schmidt asked about the 8 acres. P. Gunnary pointed out the two existing homes on the farm, one that he lives in currently and he will be building a new home. Bauman questioned where the entitlements went for the 190 acres. Four lots on the west side were pointed to on the air photo. P. Gunnary explained they would transfer the entitlement and the 17 acres would go back to Alama.

- D. Rhineberger explained how the 83 acres was reconfigured to bring it down to the road along the south side of the farm. The owners are proposing an easement to provide access along the west side of the wetland if the parcel is ever sold outside of the family. Schmidt asked whether they can approve this with an easement for access. Rhineberger stated the division meets the road frontage requirement, but to avoid wetlands this provides physical access. Schmidt noted it might meet frontage requirements, but not practical. P. Gunnary stated the sketch is a concept. They did not want to spend money on survey work and can be changed.
- E. Schermann they should lay this out, keeping in mind they do not know who may own the property in the future. Rhineberger stated if the 17 acre were kept with the farmland, there would be access.
- F. Schmidt noted another issue is the six acre lot is all tillable. The Ordinance limits them to 2.5 acres. P. Gunnary noted he wants to use the existing driveway and only would take a small area up for the house, the rest would continue to be farmed. Schmidt noted it would continue to be farmed as long as he owns it, but that may not be the case in the future. P. Gunnary indicated there are other options.
- G. Kopff asked about the 17 acres on a contract for deed and would that have been approved because it is over 10 acres. P. Gunnary stated that was always separate. Rhineberger explained it was already a separate parcel in the adjoining township. He explained the entitlement transfer. Emil Gunnary stated they have been buying the entitlement for five years. Rhineberger stated the intention is to return the 17 acres back to Alama after the entitlement is used. P. Gunnary explained originally they just wanted to move the entitlement from the Lantto farm, but the County would not let them buy the building entitlement. They were told they had to own the land. But, the 17 acres is mostly wetland and not buildable. Rhineberger explained the Ordinance does not allow transfers between separate parties. Kopff was concerned about leaving a restricted 17 acre lot; it is difficult to vary the 2.5 acres tillable allowed and she would like a reconfiguration of the lot. She suggested a 66' wide access strip, flag shaped parcel, to get back by the existing farm buildings and keep the lot 2.5 no more than 3 acres. She felt the 83 acres of farmland should include physical access without the need for an easement. She asked why not make a north and south division.
- H. P. Gunnary stated this configuration is what they came up with Rhineberger. This avoids land locking the back and gives each 300' wide on the public road. He was fine with using an access strip for the new building lot.
- I. Zins asked if it is part of the deal to transfer the entitlement off the 17 acres and sell it back. By doing that they leave a restricted piecing hanging out there. Kopff noted if it was all one farm she would feel differently. This parcel was separate and is in a different township from the beginning. Schmidt asked how that was separate in the first place. E. Gunnary stated this parcel was part of the Lantto estate and has been that way for many years. P. Gunnary reviewed the historical farm ownership. Zins stated the concern is that if it sitting there by itself, someone will argue the parcel sitting there is useless and ask for another variance.

Rhineberger noted the Board is hearing such a case now. He noted there are some differences here, but the same type of pressures are on these small restricted parcels.

- J. Wagner – felt there is enough land to come up with a configuration that provides better access and changes the tillable acreage. He suggested they continue this to give the applicant time to redesign.  
Bauman suggested they redraw lines and only create a 3 acre lot rather than six, put the extra tillable back in to the 55 acre parcel.
- K. Schermann moved to continue the hearing to July 9, 2010 and direct the applicant to develop a plan that reduces the six acre lot to no more than 2.5 acres with an access strip and provide physical access to the restricted farmland. Also, the legal documents are signed by that time.  
Bauman seconded the motion.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION: Kopff asked if the divisions and proposed house would meet minimum setbacks and the 500' separation as required under the Feedlot regulations. Rhineberger stated there are exceptions for family ownership. P. Gunnary noted the large building closest to where he would build does not house animals.

## **MINUTES**

On a motion by Wagner, seconded by Schmidt, all voted to approve the minutes for the May 21, 2010 meeting as printed.

Meeting adjourned at 10:30 a.m.

Respectfully submitted,

Barry J. Rhineberger  
Assistant Planner

BJR:tp

Cc: Board of Adjustment  
County Board  
Zins  
Applicants.  
Twp. Clerks