

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
MARCH 28, 2016 MEETING MINUTES**

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The meeting of the Goodhue County Board of Adjustment was called to order at 5:30 p.m. by Acting Chair Ellingsberg in the Goodhue County Justice Center Jury Assembly Room in Red Wing, Minnesota.

**1. Roll Call**

Commissioners Present: Brandon Schafer, Howard Stenerson, Rich Ellingsberg, Richard Mallan,

Commissioners Absent: Mike Hinsch, Robert Benson

Staff Present: Planner/Zoning Administrator Mike Wozniak, Zoning Assistant Benjamin Hoyt, and Zoning Assistant Casey MacCallum

**2. Chair appointment**

<sup>1</sup>The Board elected Richard Ellingsberg as temporary Chair. Motion Commissioner Mallan, second Commissioner Schaffer. Motion carried 4:0.

**3. Approval of Agenda**

<sup>2</sup>Motion by Commissioner Mallan, second by Commissioner Stenerson, to approve the March 28, 2016 meeting agenda  
Motion carried 4:0.

**4. Approval of Minutes**

<sup>3</sup>Motion by Commissioner Shafer, second by Commissioner Stenerson, to approve the February 26, 2016 minutes as amended  
Motion carried 4:0.

**5. Conflict of Interest/Disclosure:** None

**Public Hearing:**

**6. Lisa Marty Variance request:** to the density and driveway regulations to allow a dwelling on a parcel less than 35 acres (20 acres) in the A3 Urban Fringe district, and a variance to the County driveway standards.

The purpose of the variance request is to build a dwelling on Parcel 31.001.6700. Much of the property is in the bluff land and has marginal farmland. The property also has an easement that allows access to a private road (labeled as 290<sup>th</sup> on the Site Map) that connects to Hay Creek Trail (a Featherstone Township Road). A variance must be granted to the A3 (Urban Fringe) 35 Acre minimum to build a dwelling on this property. The current driveway does not meet design standards for private roads of the Goodhue County Subdivision Controls Ordinance and therefore a variance must be granted to allow the current driveway to be used to access up to four dwellings, a variance from the drive way width standards, and a variance from the maximum incline of the requirement 19 from the 14 maximum.

*Zoning Administrator Mike Wozniak presented the staff report and summarized the request:*

- (1) the Applicant needs a variance from County standards and still needs a variance from Township standards;*
- (2) three options were provided;*
- (3) there is limited Agriculture in the area;*
- (4) it is unlikely that the City of Red Wing will expand and provide services to the area; and*
- (5) the staff Findings provide three options for both variances.*

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*Lisa Marty (Applicant) addressed the Townships probability to amend their ordinance, the driveway was constructed and has been used at the present incline since 1986, garbage and construction vehicles do not have problems on the driveway, and the bluffs imposes low density.*

Commissioner Stenerson clarified that the BOA is addressing variances to:

- (1) the lot size,
- (2) the driveway incline,
- (3) the driveway width, and
- (4) number of accessing using the driveway. Staff confirmed.

*Commissioner Mallan nOted the rise of the driveway was unacceptable.*

Acting Chair Ellingsberg opened the Public Hearing

*Featherstone Township Chair Carl Bang addressed the Board with several concern:*

- (1) the townships primary concern is the parcel's lack of road frontage,
- (2) the Township is not inclined to amend their ordinance,
- (3) the slope of 14%,
- (4) though the driveway has worked for several years,
- (5) the Township and County were negligent when approving the driveway,
- (6) fire trucks have problems on similar steep driveways,
- (7) school busses have started to use private roads,
- (8) propane deliveries on driveway,
- (9) the Township is not interested in approving a variance, and
- (10) improvements should have been required during the 2010 transfer of ownership.

*Commissioner Stenerson asked Featherstone Township Chair Bang if the Township was interested in taking over the driveway and turn it into a township road. Chair Bang replied that the Township was not interested in the responsibility for the road.*

*Neighbor Amy Adams, who grew up on the driveway, informed the Board that she has never experienced any accidents on the road. Improving or moving the road to the left would exacerbate the incline of the driveway, and moving the road to the right would significantly impact wetlands. She also noted that only one person can use the road for access at a time.*

*Featherstone Township Clerk Gaye Larson has received calls against the approval of the variance. He also noted that the Township would not provide a variance, and have not allowed variances of this type or zoning amendments in the past.*

*Sharon Marty, the applicant's mother, provided background on the property: in 1972 Sharon bought the property from her parents, she has never gone into the ditch. She also noted the two parcels owned by the family have always been separate.*

*Dale Marty informed the Board that the driveway is drivable, and it's not as bad as it is being presented. Commissioner Stenerson and Dale discussed the topography of the driveway.*

*Susan Denis, a neighbor that accesses her house from the driveway, described the area in question and noted the drive is steep but drivable, and the top of the drive is wide enough to turn around. She also noted that students board the bus on Hay Creek Trail, and propane truck drivers have not mentioned any problems with the driveway.*

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*The applicant noted that 290<sup>th</sup> is a public road, and she doesn't want to have a negative impact on the Township.*

Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Stenerson motioned, seconded by Commissioner Schafer, to closed the Public Hearing.  
Motion carried 4:0

*Commissioner Stenerson commented that:*

- (1) lot size is historic and was not created by the applicant,*
- (2) the road is his main concern,*
- (3) the applicant is requesting a variance from regulations were created for fire and ambulance access,*
- (4) at some point there is a limit on the number of homes on an unimproved driveway,*
- (5) Zoning Administrator Mike Wozniak commented that the driveway could be upgraded to private road standards to meet code,*
- (6) meeting the criteria to support a variance for density just because it was made before the code doesn't meet the findings.*

*Zoning Administrator Wozniak commented that on a private road the people who use the road maintain it.*

*Commissioner Stenerson noted that the Township is not interested in maintaining the road.*

<sup>4</sup>Motion Commissioner Stenerson to deny both variances with the findings staff provided in Option 3 of the Staff Report.  
There was no second.

*Commissioner Mallan noted that if the County passed the variance the township would pass a variance to their requirements for the variances.*

Commissioner Mallan seconded Commissioner Stenerson's motion.

*Commissioner Schafer commented that the road width was difficult to pass; and the frontage nor the parcel size were problems for the County. Acting Chair Ellingsberg also agreed to passing the lot size variance.*

*The Applicant informed the Board that the road was 15 feet to 18 feet wide.*

*Commissioner Schafer inquired about the road widths requirements for private drives. Zoning Administrator Wazniak cited Section 8 of the Subdivision Ordinance: Subdivision Design Standards, Local Roads require 66' of right of way, and Private roads require 30' of right of way.*

Commissioner Schafer called to question the Motion from Commissioner Stenerson.  
Motion failed. 1:3 against.

*Zoning Administrator Wazniak clarified the procedural annotation that a failure for the motion to approve the variance results in a denial of the variance request. The Commissioners agreed.*

*Acting Chair Ellingsberg opened the floor for a motion to approve the density variance.*

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*Zoning Administrator Wozniak directed the Board to the findings to approve the density variance in the staff report.*

<sup>5</sup>Motion Commissioner Schafer to approve the variance from the lot density requirement for the parcel in question, amended to include staff's findings as provided in the packet. Motion carried 3:1 Commissioner Stenerson dissenting.

*Commissioner Stenerson inquired about a possible cul-da-sac for a solution. Zoning Administrator Wozniak explained that a Cul-da-sac would not solve the need for a variance.*

*There was a discussion between Zoning Administrator Wozniak and the Commissioners about several options like Cul-de-sac's, variances, maintenance and the platting process.*

- 7. Eric Otto Variance request:** to the setback requirements to allow a structure within the 30 foot setback from the bluff impact zone.

The purpose of the variance request is to build a dwelling on Parcel 37.008.0600. The property is zoned A2 (Agricultural) and the surrounding area is predominantly rural residential. The bluff lands and CAP-X limit the buildable area of the parcel.

*Zoning Administrator Mike Wozniak presented the staff report with the findings, conditions and summarized the request. Staff recommends approval.*

*Comments from Beau Kennedy (Goodhue County SWCD)  
October 2015*

*Note, if a variance is needed for house/shed within the bluff setback, I don't foresee any major issues. I would however avoid placement of structures within the bluff impact zone. The owner mentioned that a few feet of material will be cut off the top of the hill prior to construction. We discussed erosion and sediment control measures on site. If these practices are properly installed before, during and after construction, I do not see a major impact to the bluff.*

*March 2016*

*It does appear that the home will be placed slightly within the 30' setback from the top of bluff. It may be worth the landowner's time to adjust the plans a few feet to avoid bluff ordinance impacts. I'm not sure what the setbacks are for the property line to the south, but it appears that there is room to move the house and shed to the south 10-15 feet without a major issue. Erosion control measures and special attention to roof and yard drainage should be noted to prevent runoff during and after site development.*

*The Applicant stated the need for the variance is to build a house on the property that the family has owned for generations.*

*Commissioner Schafer noted the need for the variance is for the septic drain field, not any structure.*

*Commissioner Stenerson requested clarification on the topography, whether it was the top or toe of the bluff, and the location of the CAPX easement.*

Acting Chair Ellingsberg opened the Public Hearing. Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Schafer motioned, seconded by Commissioner Stenerson, to close the Public Hearing.

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Motion carried. 4:0

*Commissioner Stenerson inquired about complaints from the neighbors. The Applicant stated that there were none.*

<sup>6</sup>Motion by Commissioner Schafer, second by Commissioner Stenerson, to approve the request for the variance from the bluff impact zone setback with the findings and conditions as provided by staff.

Motion carried 3:0

- 8. Derek Dicke Variance request:** from the Setback and Density regulations to allow a building on parcel 26.009.0400.

The purpose of the variance request is to build a dwelling on a ¼, ¼ that already has a dwelling and the 1000ft feedlot setback requirement. The applicant intends to split the property from the main dwelling and feedlot, and the variance would apply to the newly created parcel. Section 9 of Belvidere Township has ten potential dwelling sites available, and the applicant has access to three. This building site requires two variances, and denial of either would render the lot undevelopable.

*Zoning Administrator Mike Wozniak presented the staff report. The Applicants preferred location, and purpose of the request, would limit the impact on agriculture, and past actions would support approval.*

*Zoning Assistant Ben Hoyt explained the odor offset implications.*

*Zoning Administrator Mike Wozniak presented the recommendations, findings, and conditions.*

*Commissioner Stenerson inquired about development rights and specifics on the setback encroachment. Zoning Administrator Mike Wozniak answered that the variance is for 300' to allow the house site to be placed within 700' of the feedlot.*

*The Applicant stated that the preferred development right transfer should be from the North East ¼-¼.*

Acting Chair Ellingsberg opened the Public Hearing. Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Schafer motioned, seconded by Commissioner Stenerson, to closed the Public Hearing.

Motion carried. 4:0

<sup>7</sup>Motion Commissioner Schafer, second Commissioner Mallan, to approve the variance with the amendment to add the Condition of development right transfer from the NE ¼ - ¼.

Motion carried 4:0

Acting Chair Ellingsberg called for a short break.

- 9. David Bye/Jeff Dorman Set Back Variance:** to allow a dwelling on parcel 40.027.0200. The property has enough space to avoid the 1000 foot feedlot setback requirement, but the topography and field drainage patterns would make building difficult. The proposed variance would allow construction of a dwelling within 940' of a feedlot instead of the required 1000'. The feedlot in question is located on Tax Parcel #400261200 on property owned by Wayne R. Streiff and currently there are no animals on that property. A two-foot contour map (see GIS Site Map with 2-foot contours) clearly illustrates a circular shaped flatter portion of the site for the proposed dwelling location.

*Zoning Administrator Mike Wozniak presented the staff report and summarized the request.*

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*Commissioner Schafer stated that the State and County regulations nullifies the feed lot regulation if the feed lot has not had animals in the five years.*

Acting Chair Ellingsberg opened the Public Hearing.

*Brian Hoven asked about the need for the variance if the feed lot shouldn't be registered. Zoning Administrator Mike Wozniak explained that staff was informed that the feed lot was registered.*

Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Stenerson motioned, seconded by Commissioner Schafer, to close the Public Hearing.  
Motion carried 4:0

<sup>8</sup>Motion Commissioner Schafer to approve the request for variance as presented, seconded by Commissioner Stenerson.  
Motion carried 4:0

**10. Staff Update:** Comprehensive Plan, Ordinances, and next meeting.

*Zoning Administrator Mike Wozniak discussed the Comprehensive Plan survey, trends, and timeline; and that staff will prepare updates to several Ordinances for the Planning Commission to approve, which will affect the amount of variances. Zoning Assistant Ben Hoyt informed the Board that the next Board of Adjustment meeting will have 2 items: a solar energy system and a variance to the A3 lot size regulation.*

**11.<sup>9</sup>Adjourn:** Commissioner Schafer, second by Commissioner Mallan, to adjourn the Board of Adjustment at 8:00pm.

**Motion carried 3:0.**

Respectfully Submitted,

Casey MacCallum, Recording Secretary

MOTIONS

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<sup>1</sup> APPOINT temporary Chair Elingson. Motion carried 4:0.

<sup>2</sup> APPROVE the March 28, 2016 meeting agenda Motion carried 4:0.

<sup>3</sup> APPROVE the February 26, 2016 minutes as amended. Motion carried 4:0

<sup>4</sup> Motion Commissioner Stenerson to deny both variances with the findings staff provided in Option 3 of the Staff Report. There was no second.

<sup>5</sup> Motion Commissioner Schafer to approve the variance from the lot density requirement, amended to include staff's findings as provided in the packet. 3:1 (Commissioner Stenerson dissenting)

<sup>6</sup> Motion by Commissioner Schafer, second by Commissioner Stenerson, to approve the request for the variance from the bluff impact zone setback with the findings and conditions as provided by staff. Motion carried 4:0

<sup>7</sup> Motion Commissioner Schafer, second Commissioner Mallan, to approve the variance with the amendment to add the Condition of development right transfer. Motion carried 4:0

<sup>8</sup> Motion Commissioner Schafer to approve the request for variance as presented, seconded by Commissioner Stenerson. Motion carried 4:0

<sup>9</sup> Adjourn: Commissioner Schafer, second by Commissioner Mallan, to adjourn the Board of Adjustment at 8:00pm. Motion carried 4:0