

WRIGHT COUNTY BOARD OF ADJUSTMENT

Meeting of: May 28, 2021

MINUTES - (Informational)

The Wright County Board of Adjustment met May 28, 2021 in the County Commissioner's Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, John Jones, called the meeting to order at 8:30 a.m. with the following Board members present: Jones, Bob Neumann, Dan Mol & Dan Vick. Absent was Paul Aarestad. Barry Rhineberger, Planner, represented the Planning & Zoning Office; Greg Kryzer, Assistant County Attorney, attended remotely for legal counsel.

MINUTES

On a motion by Vick, seconded by Neumann, all voted to approve the minutes for the May 7, 2021 meeting as printed.

1. **JOHN D. WITSTINE** – Cont. from 4/9/21

LOCATION: xxxx 9TH St. SE - Lot 4, Block 3, The Birches, according to plat of record, Section 5, Township 119, Range 24, Wright County, (Lake Martha-Rockford Twp.) Tax #215-011-003040

Requests a variance of Section 155.026 & 155.049(5)(a) , 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to construct 36' x 36' x 14' (H) detached garage on an 8,285 sq. ft. vacant lot. Proposed structure to be 28.5 ft. from the Ordinary Highwater Mark of lake, 10 ft. from the road right-of-way and 43 ft. from the centerline on town road, exceeds 15% lot coverage by buildings.

Present: John & Teresa Witstine

- A. Rhineberger summarized the continuation from April 9 was to give the applicant time to reconsider plans for an accessory structure on a back lot. The proposed dimensions and setbacks were relayed as noticed. The applicant has changed the size, reduced the side wall height to 12' and made adjustments from the lake and road setbacks. The proposed size is 28' x 32, oriented the 32' north and south which improves the setback from the lake by 4'.
- B. J. Witstine –explained the 32' x 28' has the 32' dimension parallel with the road. The road setback is 10' to 12', with a lakeside setback of 34.5' from the ordinary highwater mark of lake. Rhineberger noted the building is still within the shoreland impact zone. J. Witstine noted this is within 15% lot coverage and had originally requested a 14' sidewall. The new site plan slide was displayed, along with the schematic drawing of what the garage will look like.
- C. Neumann –felt it is unfortunate the lake moves into this lot; prefers the garage doors face the side and not the road. Although he is not entirely satisfied, would accept the revisions to the plan.
- D. Mol – stated his opinion on the lake setback has not changed. This is too close to the lake, the neighbors' concerns and the 10' off the road right-of-way does not allow room to park in front of the garage. He understands what the applicant is trying to do; but has not supported these setbacks in the past.
- E. J. Witstine – explained the purpose is to get things under cover and out of sight. The location minimizes destruction of the wooded area. People are already parking along the road in this neighborhood.
- F. Jones explained the Board is also considering the fact the building is in the shoreland impact zone and the problems that causes. As stated at the last meeting, the Board must consider not just impact to this location but across the County if this were to be approved. He is especially concerned on those aspects and is not in favor.

- G. J. Witstine noted the driveway is pervious. Rhineberger stated it is not because the definition the County uses is any driving or parking area is impervious. Although some areas consider some pavers, Wright County does not because of the maintenance required and no Staff to monitor these.
- H. Vick asked if the pontoon they plan to store will fit in the 32' length of the building? T. Witstine stated they are willing to change the current trailer to a scissor style because it takes less room. Vick agreed with Mol's point on parking. Vick wants to see a side entrance even if trees must be removed. No one should be parking in the road right of way. If the garage entrance is to the side, the likelihood would be reduced. T. Witstine assured the Board they would not have a need to park in front of the garage. Vick & Rhineberger explained the next family/owner might.
- I. Mol further explained the concerns and are applied to all areas in the County. This is too close to the road and lake and the Board must stay as close as possible to the Ordinance. He has been on the Board a long time, tries to maintain at minimum a 50' lake setback and 10' from the road right of way is not something he will support. T. Witstine offered a 12' off the road right of way. J. Witstine reminded the Board this is actually 40' from the centerline of travelled road. Asked how they would control where people park regardless of where the doors are. Vick noted people are more likely to pull up to doors. He would accept the size and for him it is more about the location of the doors. Downsizing might accomplish this.
- J. Rhineberger summarized the Board is looking at a revised request for a 24' x 32' garage, the 32' parallel with road and lake, 10' from road right of way and garage doors facing east or west. The Board would not object to moving the garage to the other corner where a small improvement on the setback might be accomplished.
- K. T. Witstine – noted the proposed location would cover up an area where the septic tanks were abandoned. Her garden and fruit trees are in the other corner of the lot. J. Witstine – there are pine trees that would have to be removed and they buffer the site from the neighbors. Although the ordinary highwater mark is identified on the survey, this is not open water that a boat can navigate through. Full of grass and reeds. He described the runoff pattern. Felt the air photo is deceptive, the location of the garage does not have any trees of value, more brush.
- L. Vick moved to approve a 28' x 32' garage with side walls not to exceed 12', 10' from the road right of way line, 34.5' from the Ordinary Highwater Mark of lake, driveway to be parallel to the road with entrance to the garage on the southwest side and away from the road. Neumann seconded the motion.
- VOTE: Vick & Neumann in favor; Mol & Jones opposed MOTION FAILED
- M. Rhineberger and Board members discussed the applicant's options were to ask for a continuance for a full Board. The result is a denial as it stands. Discussion followed on the individual Board members opinion. Mol – 34' is too close. Concerned with the setback from the road and orientation. How would water runoff be handled. Vick those would be his concerns also if this building were habitable. Rhineberger asked what setback Mol would like to see? Mol – the recent variance given the neighbor; he would want to see 54-55' setback. Jones – noted the precedent is a concern and what they will see come after. Agrees the distance from the lake is a problem. Vick questioned if a 16' dimension would provide much storage space. Mol – asked what is the hardship? Even if a smaller building does not fit a pontoon, there are other items it would provide storage for. Does not feel providing storage for a pontoon is a hardship, there are other places people store off site. Large pole sheds in this area may not be appropriate, need to look at the

neighborhood. J. Witstine – the large sheds are already out here. Mol – but they have better setbacks.

- N. Vick asked if addressing the watershed would satisfy the concerns? Rhineberger as far as the runoff, explained this area has a natural filter with the cattails and vegetation and the runoff is not the same concern as with a manicured lawn to the lake. The Board had considered the type of shoreland when they looked at the neighbor's request. This is the backwater of the lake. Measuring the eastern side of the lot he gets 80' from the road to OHM. It is 67' on the proposed side of the lot and he is not suggesting where it should go but is what they have to work with. Vick – all the drainage goes to one side, would that help?
- O. Neumann – there was a motion that failed. Rhineberger – the Board can make a new motion. Jones – unless they are making any major changes, he does not see this going through. Rhineberger – it is the width that is impacting the setbacks and he would not be comfortable with a continuation for revisions unless there is a clear direction from the Board. Mol- recalling his previous conversations, a structure that is 54' from the OHM and 10' off the road he could agree with. That is the parameter on the other lot he set. Runoff will run toward the lake; water on this lot does not go to the road and a ditch. Jones – he agrees with Mol, this is way too close. Vick – a 54' setback would only leave 8' wide for a building. Rhineberger- width might increase on the other side of the lot. He asked Counsel what direction he had? Kryzer – if it is headed for denial it would be to prepare Findings. Section 15.99 was noted, and a tie vote is a denial. Rhineberger – could continue the hearing. Kryzer concurred.
- P. Mol moved to continue the hearing to June 18, 2021 for a full Board. Jones seconded the motion.

VOTE: CARRIED UNANIMOUSLY

Rhineberger explained this motion allows for further discussion and a full Board rather than the denial.

2. **AUSTIN J. PIETIG** – New Item

LOCATION: 1497 30TH Street SE – Part of NE ¼, south of the township road, Section 20, Township 119, Range 25, Wright County, (Crawford Lake - Rockford Twp.) Tax # 215-100-201100

Requests a variance of Section 155.026, 155.051 & 155.057, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to build a new 16' x 31.5' bedroom addition and a 5.5' x 24' one level over a basement also build a 7' x 27.5' & 6' x 24' additions to attached garage and a 3' x 10' covered porch addition to the side and roadside of a dwelling that is 82 ft. from the Ordinary Highwater Mark of a Recreational Development Lake.

Present: Austin Pietig

- A. Rhineberger – the property is approximately five acres above the Ordinary Highwater Mark of lake, noting the legal description runs below the lake. The proposed additions were summarized as shown on the survey and include 16' x 31' and a 5.5' x 24' one level addition over a basement, additions to the attached garage and to the side and roadside is 3' x 10' covered porch addition. The additions do not move closer to the ordinary highwater mark than what exists. The deck is the furthest projection. Plans were displayed to show the living space portion and garage expansion. The house location and topography were viewed as shown on the survey. Town Board approval was received. Rhineberger noted he has no one from the public on-line for this item.
- B. Pietig – this is a walkout, and they are trying to keep everything low. Photos of the structure were displayed. The deck is jogged back some.
- C. Mol – considering there is much being proposed, suggested they make a site inspection. Jones agreed they are adding a significant amount of square footage to a non-conforming structure. Would agree looking at the site helps form a decision. Mol – indicated he is not leaning one way or another. Vick asked if there is a stormwater management plan and are they running a lot of water toward the lake. A lot of roof area. Pietig indicated there is not; but did not think the proposal would affect that. The water runs toward the lake now.
- D. Mol moved to continue the hearing to June 18, 2021 for a site inspection. Neumann seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **DIANE R. BREWER** – New Item

LOCATION: 680 Greer Avenue NW – Lot 3, Block 1, Lilac Way Addition, according to plat of record, Section 36, Township 120, Range 27, Wright County, (Rock Lake - Albion Twp.) Tax # 201-019-001030

Requests a variance of Section 155.026 & 155.049 & 155.057, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to convert an existing three-season sunroom into a bedroom and add 8' x 14'33 addition to the side, no closer to the lake than existing sunroom which is 65.1' from the ordinary highwater mark of lake. Existing dwelling is 2.9' from the closest corner to a side property line.

Present: Jack & Diane Brewer

- A. Rhineberger – displayed the air photo of the property on Rock Lake. The survey completed shows the existing structure and proposed conversion of a deck and three-season porch into a bedroom and bathroom addition. The sunroom is 65.1' from the ordinary highwater mark of an RD lake, it will be 72.5' from the actual water. The variance in 2006 for the sunroom was approved by the Board. The survey shows the 65.1 is to the deck, the addition will be a little smaller. The structure exists at 2.9' from the side property line and would not change; but would be converted from a three-season to four season living space. The Town Board has approved.
- B. Jones – the Town Board notes it is for a handi-cap son? D. Brewer explained that is the reason for the additions, they have no bathroom or bedroom on the main level. J. Brewer – there son is 18 and must be carried upstairs to bathe and sleep.
- C. Vick – the reason is understood and agrees to allow it.
- D. Neumann – also a member of the Town Board, suggested they explain the history of the property as they told the Town Board. D. Brewer – the house was built in 1885 and when the original owner parceled off land and built next door had thought this house would get torn down. The new owners had fixed it up and the house is right on the line. The original owners had thought a new house replacing this one would be moved over. Neumann – at the Town Board they considered they are replacing what is there to better meet their needs. The Town Board did not have any issues if the variance is granted.
- E. Mol – agrees with the comments, but in 2006 the record shows that they would not be moving closer to lake or expand living space. Questioned if there is a picture of the three-season porch? Rhineberger – did not get to the site to take a picture. The Assessor has a picture that shows it is three-season with windows. D. Brewer – the reason it is not four-season is it does not have heat extended out. It is insulated and fully enclosed. They would sheetrock and convert the space into a bedroom. The other space is where the bathroom would go, the plan shows a crawl space, but their contractor indicated it could go on pillars. J. Brewer – indicated there would be no water issues as this would not add to the coverage. Rhineberger – noted they could do a poured wall with a crawl space, as the area under roof is already counted in the hard surface coverage. Mol – since they are not encroaching closer to anything and there is a need, he can go along with it.
- F. Rhineberger – in 2006 a site plan provided the Board for the previous variance hearing had different information and the structure is closer based on the recent survey.

- G. Mol – moved to approve a variance according to plans submitted, marked Exhibit “A”, to convert an existing three-season sunroom into a bedroom and add 8’ x 14’33 addition to the side, no closer to the lake than existing sunroom which is 65.1’ to deck, 75.25’ to proposed addition from the ordinary highwater mark of lake. Existing dwelling is 2.9’ from the closest corner to a side property line. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **SCOTT R. WALD** – New Item

LOCATION: 1751 40TH St. SW – W 465 ft. of E 1461 ft. of N 580 ft. of NW ¼, Section 26, Township 119, Range 26, Wright County, MN. (Marysville Twp.) Tax # 211-000-262102

Requests a variance of Section 155.003(B) (1), 155.026 & 155.048 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to build a 40' x 64' addition to the existing accessory building bringing the total size of the building to 4,160 sq. ft. on a six-acre lot.

Present: Scott Wald

- A. Rhineberger displayed the location map to show the 6.1-acre lot zoned AG. Request is a 40' x 64' addition to the accessory building, bringing it to 4,160 sq. ft. The lot size limits the maximum size accessory building to 4,000 sq. ft. The property was originally developed for a church and was sold and now used as a storage building. Building meets all setbacks. The Town Board approves.
- B. Wald – stated they want to eventually move back to the area and build a home on the property. He has a car collection and a motor home to store. The additional square footage relates to the way the drainage is, moving between the window and the door and if he makes the addition the additional 160 sq. ft. to extend to the edge of the building. The reason for the expansion is the storage needed, the location of the addition moves it away from a window and moving it over would make the structure look bigger from the road.
- C. Neumann –he is considering why he would go through the process for an additional 160 sq. ft. Although it does not seem unreasonable, just looking for a hardship. There seems to be plenty of space and with no other setback issues, he is willing to go with the increase in size.
- D. Wald – when they built this for the church they put a ditch around it and drains to the wetland. Does not want to interfere with that or change that. Rhineberger – advised the applicant, before changing any drainage, he should contact Scott Deckert, Environmental Health Officer. Wald – explained the ditch and drainage and if he goes further down it could impact that. Rhineberger asked about the sidewall height? Wald – confirmed it is 16'.
- E. Mol – struggles with finding a hardship and asked about the maximum. By shortening the addition by 4' that should get it further from the drainage he describes. He noted the standard construction is 8' on center poles; but can add a 4' rafter on the end. Even though it is only 160 sq. ft. over; wants to hear what the hardship is. Wald stated if he pushes it toward the middle he would have to put a door on the side. Noted where it is gravel and packed and would not have to change any surface. Mol – if it is reduced it is still connecting to the shed in the same location and just shortening up 4' to make it compliant. He is willing to listen to what the hardship might be. Wald – it would change the garage door location.
- F. Vick – after listening to the discussion asked why 38' x 64' or 36' x 34' could not be built and just miss the window. Rhineberger – explained the 4,000 sq. ft. is a hard number. He noted there is a policy in R-1 standard where they allow up to 1,440 sq. ft. with a specific standard dimension. That is a specific written policy for R-1 because of the odd number. Vick – concurred with Mol. Wald explained it took about a year to even get a contractor out for a bid and he is just going by what he recommends. Vick did not think there was reason to vary the law.

- G. Wald – is uncertain what the reasons his contractor recommended this. He was out, looked at the area and location of the door and window. Discussion followed on what the applicant's options are. Mol – suggested they could continue to allow the applicant to talk with the contractor. Rhineberger – from a structural standpoint a modification could make for an argument that it makes the project more costly. He stated that is not a hardship for a variance. The action could be a dismissal if the applicant prefers; if there is action to deny that would go on the record and is the only way the applicant could appeal that decision to District Court. Wald – is uncertain if his contractor has any other reason. If it is reduced, he was informed he could modify the plan and apply for a building permit if he chooses to dismiss the petition. The Board has indicated they are not seeing a practical difficulty for a hardship for a variance, noting they cannot consider financial.
- H. Hearing the options, Wald asked for a continuance to it run by his contractor.
- I. Vick moved to continue the hearing to June 18, 2021 at the applicant's request. Mol seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **JJ ERGEN & SON'S LLC** – New Item

LOCATION: Several parcels along CR 75 NW – described as part of Gov't Lots 1, 2 & 3, Section 1; SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 13; & part of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ & part of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and part of S $\frac{1}{2}$ of NE $\frac{1}{4}$ lying north of the freeway, Section 12, all in Twp. 122, Range 27. & Gov't Lot 2, Section 6 & Gov't Lot 9, Section 7, all in Twp. 122, Range 26, Wright County, Minnesota. (Mississippi River – Clearwater Twp.)

Requests a lot line adjustment as regulated in Section 155.026(E)(2) & 155.048 & 155.058, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow a separation of tax parcels lying southwest of County Road 75 as one “restricted” parcel from the balance of land lying northeast of County Road 75.

Present: Lynn Crandall, applicant's agent

- A. Rhineberger displayed the air photo with property lines overlayed. Noted the property consists of 12 different tax parcels that add up to approximately 304 acres and split by County Road 75. The request as submitted was to divide parcels using the county road as the dividing line. One parcel sits on both sides of the road and as part of the adjustment, they have to address the other parcels as far as combinations to provide road frontage to them. Using the assessor's map outlined a strip that is part of parcel lying on both sides of the road and that strip would attach to other parcels north of the county road. The property owners' house was pointed out and how they had wanted the strip to connect to other property they own. Maintaining the yellow strip with the blue and purpose in doing that is for assessment reasons. It is cleaner to include the entire parcel. To meet the road frontage requirements, it would require several parcels to be combined. These parcels are in five different Sections and cannot be simply combined by tax parcels, there will be Administrative Orders needed. Approval from the Town Board and City was received. The City stated they have no objection if the zoning and land use does not change. Rhineberger indicated that would not be before this Board.
- B. Vick asked about the City's concern and access. Rhineberger does not know their intention, explained this all falls within the Transition Area and is planned for annexation. The City is also applying for an AUAR that gives them some jurisdiction outside of the City. At some time, it is likely to become a commercial area. Vick – what we are asked to do would not landlock anything? Rhineberger – that is right. Crandall asked about the strip which Rhineberger clarified that the strip is all road easements. Crandall - want to separate that part lying north of the road. Jones – noted if it is right-of-way they cannot do anything with it. Rhineberger – that would all be platted once a commercial plat is approved. If not added to the south, it would be more complicated with these small strips and asked what could be done with them. Staff feels it is better to keep a portion with land to the south and is directly connected. Using the map, he explained it is a choice on where they make the dividing line.
- C. Crandall –along the yellow line are residential lots. She questioned why that was left. They are asking for part of that strip to go one way and the rest the other. Rhineberger explained these old divisions did not get any review by Planning & Zoning. He reviewed what Staff feels makes most sense and was not on the original application. Crandall stated after the owners reconsidered, they want to split like Rhineberger explained.

- D. Vick questioned the application and notice? Mol – the Town Board approved something different. Rhineberger – this option is less than what the Town Board approved. He would have liked to see the Highway Department's input. In this case, it is best to leave it the way it is and change the other parcel.
- E. Neumann questioned if this strip does not landlock the residential sites along there? Rhineberger the right of way easement abuts their property line. They are crossing land owned by someone else, but it is in the public road right of way. The highway right-of-way along here is 150' wide. Mol – are we sure that the road right of way touches these residential lots? Rhineberger – there is a road right-of-way plat. That will still be the case regardless which way they go. As described, with the northern yellow line, it will be consistent ownership along there. This Board could not change the ownership of that. His understanding is what owners can do within that area is up to the County Highway Department.
- F. Vick – asked Rhineberger if that is the best solution? Rhineberger – creating additional strips and ownership does not make it cleaner. This is right outside the City and is likely to develop.
- G. Crandall agrees with Staff's suggestion
- H. Mol moved to grant a lot line adjustment according to site plan marked Exhibit "A" division according to Line "A", subject to new legal descriptions and the property owner filing an Administrative Order. Vick seconded the motion.

VOTE: CARRIED UNANIMOUSLY

SITE INSECTION

On a motion by Mol, seconded by Vick the Board scheduled a site inspection for June 8, 2021 at 8:00 a.m.

Meeting adjourned at 10:25 a.m.

Respectfully submitted,

Barry Rhineberger
Planner

BJR:tp

Cc: Board of Adjustment
Township Clerks
Applicant/Property owners