MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday March 24, 2022

The Board of Adjustment convened in regular session on Thursday, March 24, 2022 at the Pope County Courthouse, 3rd floor Meeting Room.

Members Present: Roger Isdahl (C), Mark Halls (VC), Ivie Cooley, John Messenger, Ron Fiegum and Ted Kannegiesser

Other Officials Present: David Green (Land & Resource Management Director), Larry Lindor (County Commissioner) and Paul Gerde (County Commissioner)

Call to Order

The meeting was called to order by Chairman Isdahl at 6:00 p.m.

Additions and Corrections to the Agenda

There was no additions or corrections to the agenda.

Review minutes of February 24, 2022

The minutes of the Board of Adjustment meeting that was held on December 16, 2021 were submitted for approval. Motion to accept the minutes as written was made by Feigum and seconded by Kannegiesser. Motion carried with no dissenting votes noted.

General Business

Director Green addresses the Board, applicants and public regarding the role of the Board of Adjustment and the standard for granting of a variance.

Tabled/Old Business

Variance-Craig and Barbara Wetter

(A public hearing on this item had taken place on 02/24/2022)

Chairperson Isdahl introduces the item followed by a staff report as presented by Director Green. Staff concludes that based on the information that was made available at time of application that a "practical difficulty" had not been established. Green acknowledges that additional information had been submitted (on 03/24/2022) and that the testimony of the applicant may provide more information for consideration. Craig Wetter presents project proposal to the Board and apologizes for the lateness of design submittal. Wetter argues that the unique configuration of the parcel which results in a small building envelope has caused the inability to comply with setback standards. He argues that a 10 x 20 patio area is necessary so that they can locate a six chair and table patio set a sufficient distance from a grill for safety purposes. Cooley seeks clarification on scale of drawing. Cooley asks question about egress windows, there location and the impact to the sidewalk and patio design. Cooley follows with question regarding and how far the overhangs project from the home structure. Wetter replies that he wasn't sure how big the overhangs were, perhaps two or three feet.

Wetter also, states that the submitted landscaping proposal is just a rendition not the finalized plans and that it could/would be modified to meet conditions of variance if granted. Halls asks whether the patio is poured concrete or porous pavers. Wetter responds, "pavers". There is some discussion regarding impervious surface coverage. Halls asks question about elevation drop to lake from home. Wetter supposes that it may be "around 20 feet". Feigum makes motion to approve with condition that the last two feet of the patio area is constructed with impervious pavers. Motion is seconded by Cooley. Discussion follows. Director Green cautions about making conditions that are not related to a clearly identified impact. Green points out that there was discussion indicating that the impervious surface coverage on the entire parcel was at approximately 12% which is less than half of the 25% standard. Feigum withdraws motion, seconded by Cooley. Halls comments about the extent to which the side patios may be encroaching within the 100' setback limit followed by more discussion regarding the location of the sidewalks. Cooley would like to see the sidewalk located closer to/adjacent to the house structure. Commissioner Lindor comments that if the sidewalk is located too close to the house that it may limit the use of the entire surface area of the sidewalk. There is more discussion regarding how far away from the house that the patio would extend. Messinger comments that a 192 square foot patio would be sufficient for the applicant needs. There is some discussion about the staff provided conditions of approval. Question is raised regarding whether the overhang constitutes a structural component for measurement purposes (relates to condition #1). Director Green states that according the definitions of structure in the Land Use Ordinance that an overhang is included as part of a structure. Therefore, unless the text associated with condition #1 is amended, then technically the measurement could be from that point. Kannegiesser makes motion to approve with conditions as identified in the staff report except that condition #2 is amended to allow for 200 square feet of area. Motion is seconded by Cooley. Motion is supported by unanimous vote.

Following the decision to issue a variance, Halls makes a motion for staff to develop Findings consistent with the action taken by the Board. Motion is seconded by Cooley. Motion is supported by unanimous vote.

FINDINGS: Based upon the information as presented to the Board of Adjustment on March 24, 2022, it was determined to be not in conflict with the comprehensive plan and Practical Difficulty was established. Therefore, the Pope County Board of Adjustment approved the variance request.

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**

   Finding: The Pope County Land Use Controls Ordinance is the official controlling document for land uses within Pope County. Included within the Land Use Controls Ordinance is section 10.20 Subsurface Sewage Treatment System Ordinance. The design associated with upgrading the existing onsite septic system is consistent with this section of local ordinance and MPCAs 7080 Rules.

2. **Use of property/structure is a reasonable use:**

   Finding: Vacation home rental is an acceptable and permissible use on this property.

3. **Character of locality and detriment to neighboring properties:**

   Finding: The proposed use, in the interim until the septic system has been upgraded, should not impact the character of the locality nor shall there be a detriment to the neighboring properties.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**

   Finding: The current landowner did not install the existing septic system. However, the owner is going forward with upgrading the system to meet minimum design standards so that the property can be utilized in a permissible fashion. The septic system issue was inherent with the acquisition of the property.

New Business

Variance-Ryan Haar on behalf of Third Premier Properties, LLC

Chairperson Isdahl introduces the item followed by a staff report as presented by Director Green. Presentation includes a brief discussion of what constitutes Compliance as per MN Rules Chapter 7080. Green points out that the current septic tank is undersized by 7080 design standards for the number of bedrooms in the house as well as because there is a sewage ejector pump in the basement of the structure. Green points out that the applicant has secured a design, permit and contractor for the necessary system upgrades. And that the designer has stated that the existing system can continue to be used without concern for failure. Staff concludes that the department does not object to the issuance of a variance in this case provided that the Board applies the staff recommended conditions of approval with includes limiting the overnight occupancy to eight persons and the contracting of a sewer specialist to monitor the integrity of the septic system. Haar is present and states that the contractor (Lundblad) may be able to install the septic tank as earlier as mid May. Haar states that they want to follow proper procedure but do want to start offering the property for short-term rental as soon as possible. Chairperson Isdahl seeks public input via Public Hearing on the subject matter. There being no one present to speak either in favor of or against the proposal, Chairperson Isdahl closes the Public Hearing. The site team shares their findings followed by a discussion of staff derived Findings. Motion by Messinger to approve of the variance request with the conditions of approval as specified in the staff report. Motion is seconded by Fiegum. Motion is supported by unanimous vote of members present (5). (Kannegiesser is not in room at time of vote)

Adjournment 7:15 p.m. Motion by Halls to adjourn the Board of Adjustment meeting with a second by Messenger. Motion carried with no dissenting votes noted.

Respectfully submitted,

David Green/Director
Pope County Land & Resource Management