POPE COUNTY
MINNESOTA

MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday, May 23, 2024

The Board of Adjustment convened in regular session on Thursday, May 23, 2024 at the Pope County Courthouse, 3rd floor Meeting Room.

Members Present: Roger Isdahl, John Messenger, Ivie Cooley, Ted Kannegiesser, Mark Halls and Russell Barkeim

Other Officials Present: David Green (Land & Resource Management, Director), Jessica Hill (Zoning Administrator), Galen Gruber (Land Use Specialist II), Paul Gerde (County Commissioner) and Paul Wildman (County Commissioner)

Call to Order

The meeting was called to order by Chairman Isdahl at 6:02 p.m.

Additions and Corrections to the Agenda

There were no additions or corrections to the agenda. A motion to accept the agenda as prepared was made by Barkeim and seconded by Kannegiesser. Motion carried with no dissenting votes noted.

Review minutes of April 25, 2024 Regular Meeting of the BOA

The minutes of the Board of Adjustment meeting that was held on April 25, 2024 were submitted for approval. Motion to accept the minutes as written was made by Cooley and seconded by Barkeim. Motion carried with no dissenting votes noted.

General Business

There was no General Business to discuss.

Tabled/Old Business

Variance #24050, applicant **Kenneth Moe** (absent) PID# 08-0183-000 tabled from April 25, 2024.

Director Green provided a summary of Mr. Moe's variance request, Board discussion, and the resulting motion to table the request for today's hearing. Director Green noted that the Board had requested the applicant to provide additional information and that Mr. Moe had provided additional comments via email which was provided to the Board for their review. The additional comments from Mr. Moe did not influence the Staff Report or recommendations to the Board.

Discussion was had among the Board about whether to table the request again in light of Mr. Moe not being present. Director Green provided comment on the need to comply with the statutory timeline to address applicant requests and the path to extending this timeline.

During the Board discussion, Cooley expressed concerns twice that the April 25th motion to table the request called for Mr. Moe to meet with L&RM staff and that staff have noted that Mr. Moe has not done this.

Motion #1:

Board member Halls made motion to table this item until the next monthly meeting in order to allow Mr. Moe a chance to comply with the Board's request that the applicant work with L&RM staff. Motion seconded by Kannegiesser. Motion carried with no dissenting votes noted.

New Business

Variance Request #24094, **Phil Aslagson** (present) PID# 07-0141-001

Variance hearing on the application to replace the existing townhall structure with a 40 ft by 64 ft structure utilizing the existing footprint and extending to the north that, if granted, would allow applicant relief from the road centerline setback standard in an Agriculture Protection (A-2) zoning district, per section 7.6.D of the Pope County Land Use Controls Ordinance

Zoning Administrator Hill presented the applicant's request and staff report noting that staff does not object to the issuance of a variance and provided recommended conditions if the Board were to seek approval. Following Zoning Administrator Hill's presentation, the applicant was offered an opportunity to defend his application and to establish the practical difficulty. Aslagson made note that they were locating the structure on the highest ground and moving the structure further west would substantially increase the amount of fill needed given the existing topography. Aslagson also noted they would be able to utilize the existing foundation if they were permitted to locate the structure as proposed. Board member Isdahl asked the applicant if the proposed is a complete removal and rebuild to which Aslagson said it was. Discussion was had about the age of the existing structure and where it will be relocated.

A public hearing was called. With no one providing comment in support of or against the variance request, the Chairman closed the public hearing.

Board members who were onsite, Messenger, Kannegiesser, and Barkeim, provided comments on site conditions and offered no objection to the proposed location of the structure and further noted that, while onsite, it appeared the proposed was not a significant change from current conditions.

Motion #1

Messenger made a motion to approve the variance as requested with a second from Barkeim. Motion carried unanimously with the findings as follows:

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. Regarding structure location, there are identified regulated setback dimensions established for each particular zoning district. The purpose of the required setback for structures from roadways is to protect personal property; provide for maintenance and potential expansion of public roads; ensure safety for all users of roads and for those adjacent to roads; and to preserve the neighborhood character and aesthetics. The proposed location of the structure is approximately 73 ft from the centerline of the road. County Road 81/320th Avenue is a County-maintained road. It is not likely that allowing the structure will create a hazard to motorists using the adjacent road.

2. **Use of property/structure is a reasonable use:**
   Finding: Accessory structures are reasonable and permissible uses in Agricultural zoned districts.

3. **Character of locality and detriment to neighboring properties:**
   Finding: Granting the variance for the location of a structure will not necessarily change the character of the locality or be a detriment to the neighboring properties. The White Bear Lake townhall has been located in its existing location for decades, therefore the structure as proposed, will not be unique in this locality.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**
   Finding: The circumstances contributing to the need for the variance include that the owner wants to utilize the historic structure location because it is on the higher ground of the property. The topography slopes down to the west and south, making the proposed location the best option in relation to stormwater runoff, etc.

Variance Request #24098, **Richard & Barbara Mrugala** (present) PID# 02-0444-000

Variance hearing on the application by Richard & Barbara Mrugala that, if granted, would allow applicants relief from the side yard and road right-of-way setback standard in a Shoreland-Recreational Development (S-RD) zoning district, per section 4.3.4.D and 4.3.4.G of the Pope County Land Use Controls Ordinance.

The applicants would like to replace an existing garage with a larger garage in nearly the same location on their Shoreland-Recreational Development designated parcel. The parcel is a riparian parcel on Clearwater Bay Road, which is designated a local roadway. The existing garage is less than forty (40) feet from the road right-of-way on the east side of the parcel and less than ten (10) feet from the side yard line on the south side of the property. The owner proposes to reconstruct and expand the existing structure to the east and north of the current garage structure, with no further expansion to the south. As proposed, the structure would be located as close as five (5) feet from the eastern road right-of-way, thereby requiring an encroachment of thirty five (35) feet, and be located approximately two and a half (2.5) feet from the southern side yard property line, thereby requiring an encroachment of seven and a half (7.5) feet. The proposed location was

chosen as most practical with consideration having been given to the built as well as the natural environment.

Zoning Administrator Hill presented the staff report noting that the proposed is similar to neighboring properties who've been granted similar variances though not within the recent past and that if this parcel was smaller, it would fall under the "lot of record" setbacks which would reduce the required structural setbacks. Zoning Administrator Hill also noted that no comment was received from the township [road authority] and concluded that staff does not object to the issuance of a variance and, if granted, proposed recommended conditions including setting the structural setback to the road right-of-way at fifteen (15) feet and the setback to the side lot line at five (5) feet.

Following Zoning Administrator Hill's presentation, the applicant was offered an opportunity to defend his application and to establish the practical difficulty. Mr. Mrugala provided additional comments noting that the existing road is more of a cart way and receives minimal traffic and so the requested variance would not impact use of the road. Mr. Mrugala expressed a concern about the staff's proposed condition to set the structural setback to the right-of-way at fifteen (15) feet because it would be too far back and he doesn't see any potential issues with blocking the right-of-way. In relation to the side lot setback, Mr. Mrugala noted that the existing structure's sidewall is currently located at five (5) feet from the side lot line. Isdahl questioned the applicant asking him about the change from the existing structure's eve. Mr. Mrugala stated that the existing eve width is six (6) inches and the proposed will have a twelve (12) inch eve to conform with state fire codes. Board viewed the neighborhood via aerial photos on the county's interactive map. Cooley asked staff if neighbors had received variances for similar. Staff responded that yes, they had but not recently. Isdahl said it looked like there wouldn't be much room along the right-of-way if located where proposed. Barkeim questioned the applicant about including living quarters within the structure. Mr. Mrugala stated that there would be an attic but just for storage. No living quarters are intended for this structure. Kannegiesser questioned the applicant about whether they were going to be constructing a new foundation for the structure. Mr. Mrugala stated that they would be redoing the foundation. Kannegiesser noted then that complying with the setbacks would not be too much of an issue. Mr. Mrugala noted that there is a large ash tree that would be impacted if the structure were to be moved back.

A public hearing was called. With no one providing comment in support of or against the variance request, the Chairman closed the public hearing.

Board members who were onsite, Messenger, Kannegiesser, and Barkeim, provided comments on site conditions. Barkeim noted that he believes there is room to comply with current setback requirements. Kannegiesser stated that he believes the request is reasonable given the site conditions. Messenger expressed a concern about the buildings proximity to the right-of-way stating that it would be too close to which Isdahl asked Messenger if the staff's recommended condition of a fifteen (15) foot setback to the right-of-way would seem appropriate. Messenger replied in the affirmative. Cooley commented that requiring a fifteen (15) foot setback would allow for public parking and traffic during the busy times of year. Isdahl commented on the need to provide room for snow removal. Halls commented that he would like to see a ten (10) foot

setback to the side lot line in order to not impede activities on the neighboring property. Discussion was had about the impacts to stormwater runoff with the members onsite noting that they didn't notice any issues that weren't going to be resolved through the stormwater plan.

Motion #1

Cooley made a motion to approve the request with the following condition(s):

1. The proposed accessory structure, including overhangs, may not be located any closer than fifteen (15) feet from the road right of way.
2. The proposed accessory structure, including overhangs, may not be located any closer than ten (10) feet from the southern side lot line.

This motion was seconded by Kannegiesser. Motion carried unanimously.

With the following findings:

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**
   Finding: The purpose of the required setback for structures from roadways is to protect personal property; provide for maintenance and potential expansion of public roads; ensure safety for all users of roads and for those adjacent to roads; and to preserve the neighborhood character and aesthetics. The purpose for side yard setbacks is to mitigate impacts created by land uses on adjacent parcels as well as to account for and provide for fire protection, stormwater runoff, and utility easements. The proposed side yard setback of 2.5 feet will not serve to accomplish these purposes. The granting of a fifteen (15) feet setback from the road right-of-way, should minimally serve to accomplish the overall goal of the official controls, considering the status and intensity of use of the road.

2. **Use of property/structure is a reasonable use:**
   Finding: Accessory structures such as garages are permissible uses in the Shoreland zoning districts.

3. **Character of locality and detriment to neighboring properties:**
   Finding: Granting the variance at the requested five (5) feet from the road right-of-way does have the potential to change the character of the locality and to be a detriment to the neighboring properties. However, increasing the setback from the road right-of-way to fifteen (15) feet will minimize any potential impacts considering the status and intensity of use of the road.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**
   Finding: The circumstances contributing to the need for the variance are that the property owner desires to keep a garage structure in the same or similar location on their parcel, and there are limitations associated with having an undersized parcel that has already been limited by other development choices.

Variance Request #24099, Richard & Barbara Mrugala (present) PID# 02-0444-000

Variance hearing on the application by Richard & Barbara Mrugala, if granted would allow applicants relief from the impervious surface coverage standard of 25% in a Shoreland-Recreational Development (S-RD) zoning district, per section 10.10 of the Pope County Land Use Controls Ordinance.

Director Green presents the applicant's request and the staff report noting that the applicant provided a stormwater plan to address the increase in stormwater from the proposed increase in impervious surface including conveyance of stormwater to the proposed stormwater basin via overland flow for the driveway and via guttering for the proposed structure. Director Green also noted that the soils onsite are conducive to infiltration.

Following Director Green's presentation, Mr. Mrugala was afforded the opportunity to provide additional comments. Mr. Mrugala said that he had nothing further to add.

The hearing was opened to the public. Hearing no comments for or against the proposed request, the public hearing was closed.

Board members who were onsite, Messenger, Kannegiesser, and Barkeim, provided comments on site conditions. Messenger said that any issues he had with stormwater was addressed by the stormwater plan. Cooley questioned the applicant asking if there would be guttering placed on the proposed structure as well as the dwelling. Mr. Mrugala said that the home has guttering and that the proposed structure would have guttering installed.

Motion #1

Barkeim made a motion to grant the variance as requested with the following conditions:

1. That the variance to the impervious surface standard of 25% is limited to the scope of work as presented with the application and is specific to the areas as identified in the stormwater management plan as prepared and submitted by LANDTEAM Incorporated of Alexandria, Minnesota;
2. Construction of the stormwater collection and treatment system shall be according to the design prepared by a professional engineer, landscape architect, or certified professional in stormwater quality and approved by the Land & Resource Management Director prior to installation;
3. Prior to issuance of a permit to construct a stormwater collection system, Owner to agree to a management plan for the stormwater treatment system as prepared by the design professional;
4. That the variance is invalid, or expires, if the holder/Owner has not substantially completed the stormwater collection system within one year of issuance of construction activity permits relating to the residential structure;
5. If the variance expires due to noncompliance with construction of the stormwater collection

system, then the Owner is to abate excess impervious surface areas upon receipt of notice of violation; and

6. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions as specified and all other applicable statutes, rules and ordinances.

This motion was seconded by Cooley. Motion carried unanimously.

With the following findings:

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**
   Finding: The purpose of the stormwater management regulations in the County Ordinance, are to limit impacts to surface water quality and habitat, by development that generates additional stormwater runoff. Stormwater runoff from impervious surfaces carries sediment and nutrients from those surfaces, as well as nutrients and pollutants from lawns and landscaping, into the adjacent lakes and wetlands. By limiting the amount of impervious surface on a lot, these impacts from stormwater may also be limited. Emphasis on preventing non-point source pollution from stormwater in urban areas has led to the development of many best management practices that are designed to capture and treat runoff. By implementing the type of mitigation strategies as identified in the Stormwater Management Plan, the impacts of stormwater generated by a lot that is over-impervious may be mitigated and the intent of the official controls can be met.

2. **Use of property/structure is a reasonable use:**
   Finding: It is reasonable and permissible to have a modern sized garage structure in this shoreland designated neighborhood.

3. **Character of locality and detriment to neighboring properties:**
   Finding: Granting the variance to allow the parcel to be over-impervious will not change the character of the locality, but it could detrimentally impact the lake and neighboring properties if the additional runoff from the impervious surfaces is not controlled. For this reason, staff has recommended conditions that are intended to mitigate impacts from stormwater on lake water quality and habitat.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**
   Finding: The applicant's riparian parcel is currently developed at or near the impervious surface coverage limit. The proposed development of the property further increases the impervious surface coverage. However, with the implementation of the stormwater management mitigation strategies, as proposed, the rate and amount of stormwater runoff that impacts Lake Amelia will be reduced.

Adjournment 6:46 p.m. Motion by Kannegiesser to adjourn the Board of Adjustment meeting with a second by Messenger. Motion carried unanimously.

Respectfully submitted,

David Green, Director
Pope County Land & Resource Management

pp - Galen Gruber, Land Use Specialist II
Pope County Land & Resource Management