POPE COUNTY
MINNESOTA

MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday, August 22, 2024

The Board of Adjustment convened in regular session on Thursday, August 22, 2024 at the Pope County Courthouse, 3rd floor Meeting Room.

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

Other Officials Present: David Green (Land & Resource Management, Director), Jessica Hill (Zoning Administrator), Shelley Retrum (Sr Administrative Associate), Paul Gerde (County Commissioner) and Paul Wildman (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 were no additions or corrections to the agenda. A motion to accept the agenda as prepared was made by Board member Barkeim and seconded by Board member Cooley. Motion carried with no dissenting votes noted.

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

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

General Business

Director Green addressed those in attendance, providing a brief overview of the Board of Adjustment's role, the applicant's responsibility, and the general process of the public hearing.

Tabled/Old Business

There was no tabled/old business

New Business

Variance Request #24193, **Donna J Hahn Revocable Trust** (present Bruce Harvey, Trustee) PID# 08-0038-001

Variance hearing on the request to replace a non-compliant septic system on their riparian parcel. This parcel is situated on a Natural Environment Lake, located north of County Road 24 in Minnewaska Township. The parcel is 9.26 acres with approximately 4.5 acres of steep topography and densely vegetated land above the Ordinary High-Water Level (OHWL). The owner was notified in June of 2024 that the existing on-site septic system is non-compliant and

is required by Pope County, to be replaced within twelve (12) months of the date of the septic compliance inspection dated May 30, 2024.

Zoning Administrator Hill presented the application and staff report and comments *certified SSTS designer Aaron Thompson has submitted a septic design indicating the septic system will be 110 feet from the OHWL where 150 feet is the standard. To replace the system as designed a variance would be required. There was a comment submitted and was passed out to you today. Staff does not object to the issuance of a variance in this case with conditions.*

Applicant Bruce Harvey is present and given an opportunity to provide any additional information and comments *I am the trustee for Donna Hahn and the property is pending a sale. We would appreciate if you consider an approval of this variance request to allow us to proceed to make the septic system compliant.*

Board members Cooley and Barkeim ask applicant *will it be located in the same location as the current septic system.* Applicant Harvey comments *the mound will actually be located on a little flatter area than where the current septic is located.*

Board Chair Isdahl opened the hearing for public comment. Hearing no comments, the public hearing portion was closed.

The Board site team comprised of Board members, Kannegiesser, Cooley, and Messenger provided comment about their onsite observations stating that it is obvious the septic system needs to be replaced and the design submitted is by a licensed designer. They concur that there is limiting factors with the topography of the land as well as distances from the well, lake and house.

Motion:

Board Chair Isdahl asked for a motion. Board member Cooley made motion to approve the request as presented with the following conditions:

1. The proposed septic system components may not be located any closer than one hundred ten (110) feet from the ordinary high water level.
2. That prior to any construction activities, all necessary permits are secured from County and State agencies.
3. 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 and all other applicable statutes, rules and ordinances.

This motion seconded by Board member Kannegiesser. With no further discussion, motion carried unanimously with the findings as follows:

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

Findings: The Minnesota DNR Shoreland Rules Ch 6120 as well as the Pope County Land Use Controls Ordinance regulate the location of structures and septic system components in shoreland designated areas. The purpose of the requirements is to maintain neighborhood character and aesthetics as well as for the protection of surface water resources and personal property. The locating (as proposed) of the septic system components does not create an aesthetic issue with the boating public or neighboring property owners and is not in conflict with the Pope County Comprehensive Plan. The locating of the septic system components at a reduced setback distance will not impact the hydrology or natural characteristics of the riparian area of the lake.

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

Findings: Septic systems are permissible uses in Shoreland zoned districts.

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

Findings: Granting the variance will not change the character of the locality or be a detriment to the neighboring properties. The neighborhood will remain primarily rural residential in nature and use.

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

Findings: The circumstances contributing to the need for the variance are that the parcel is dimensionally challenged, with steep sloping topography and dense tree vegetation, which limits the space available to place septic system components on site to meet all required setbacks.

Variance Request #24197, **Michael Wildman** (present) PID# 11-0015-000

Variance hearing on a request to repurpose an existing agricultural building/shed into inhabitable living space. The existing structure is approximately 780 square feet in area (26 ft x 30 ft) and located at approximately 35 feet from the centerline of a road right-of-way. The road classification is associated with a minimum setback standard of 100 feet from the centerline.

Director Green presented the staff report and comments *this is a family farm and the road is not heavily used but it is still a public road. It is a legal non-conforming structure and if you change the use; it would require a variance. Staff does not believe that a practical difficulty has been established. While the proposed residence is a reasonable use and its proposed location will not impact the essential character of the neighborhood, the applicant has not put forth convincing evidence of what is so unique about the property that a residence couldn't be constructed and located in conformance with the setback standards as prescribed in the ordinance. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider.*

The applicant Michael Wildman was given an opportunity to address the Board and comments *this is the nicest building on the property with the other buildings on the property deteriorating and located on the low ground of this parcel. This building is in the highest point of this parcel.*

The amount of fill it would take to move the building in the low ground area would be quite substantial and I would have to clear out trees and affect the environmental impact even more.

Board Chair Isdahl opened the hearing for public comment. Hearing no comments, the public hearing portion was closed.

Board Site Team provided observations from their site visit. Board member Cooley comments *It is an old farm site and it looks like there are other options on possibly other buildings on the site could be used or moving the structure to meet the setbacks seems feasible and a reasonable thing to do.* Messenger comments *I would like to see the expansion to the west rather than to the north.* Kannegiesser agrees that *expansion to the west would be better.*

Applicant Michael Wildman responds to the board's suggestion of expansion to the west and comments *I have thought about that as well and I could agree to expand to the west.*

Motion:

Board member Kannegiesser made motion to approve the request with the following conditions:

1. The renovation to the existing structure must not result in any part of the structure being located any closer to the centerline of the road than current location
2. Any expansion must be off of the west side of building and projecting westward.
3. That prior to any construction activities, all necessary permits including septic system and construction activities permits are secured from Township, County and State Agencies.

This motion seconded by Board member Messenger. 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 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. It is not likely that allowing the structure to remain in its current location at approximately 36 feet from the center of the roadway will create a hazard to motorists using the adjacent public road or limit future road improvement.

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

   Finding: A residence on a farmstead is a reasonable and permittable use of property.

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

   Finding: Granting the variance may have some aesthetic impact to the neighborhood because there are no other residences in the area. However, the use is not likely to have any impact upon or be a detriment to neighboring properties and uses.

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

   Finding: The existing structure was constructed prior to Pope County having adopted county wide land use, zoning and development standards. It is a preexisting nonconforming structure.

Variance Request #24194, **Nancy Pesta and Patrick Walsh** (present) PID# 02-0294-000

The applicants are proposing to replace/upgrade their existing residential structure located on their Lake Amelia parcel. The parcel is undersized at 19,228 square feet and 61 feet wide. The minimum lot size in this Shoreland Recreational Development zoning district for riparian lots is 40,000 square feet in area and 150 feet wide. The applicants seek consideration in the form of a variance that would result in an increase of the impervious surface coverage to 34.6%. In support of their request, the applicant has provided a professionally developed stormwater management plan that includes the construction of two stormwater infiltration basins.

Zoning Administrator Hill presented the application and staff report and comments *the lot is undersized and is currently at 21% impervious where the standard is 25%. The proposed development would bring it to 37% impervious. We did receive a septic system design today. If the property was a "blank slate" a Type 1 septic is preferred. The soils that were taken require a Type III septic system. It should be noted it does have enough room for a Type III system. We received a storm water management plan and the design shows mitigation by utilizing two stormwater infiltration basins. We received comments from neighbors and included these comments in the staff report. Staff is not able to conclude that a practical difficulty has been established. Staff also wants to bring attention to our conditions stated in the staff report were done prior to receiving the septic system design and will need to be updated.*

Director Green comments *I think the storm water management plan needs to be looked at again to make the numbers on the impervious surface calculations more accurate. Staff needs an opportunity to work through this with the applicant and Landteam Interstate Engineering.*

Applicants Nancy Pesta and Patrick Walsh are present and given an opportunity to provide any additional information and Patrick comments *the septic system design is for six bedrooms and it should be for four bedrooms. The design is including two bedrooms that we have in our garage for overflow grandkids staying. There is no water in the garage. Its primary use is as a garage. It is basically a bunk house for our grandchildren when they come to visit and spend the night.* Nancy Pesta comments *the house we are proposing to build is four bedrooms.*

Board member Isdahl comments *where did your septic designer get six bedrooms from?*

Applicant Patrick Walsh comments *from Pope County Land & Resource Management office.*

Board member Barkeim comments *how long have you owned the property?*

Applicant Patrick Walsh comments *twelve to thirteen years. We are trying to improve not take away and we have the support of our neighbors. Our intent is to move here as a permanent*

residence. I believe the garage entrance being moved may help our situation for impervious surface and location of the septic. Applicant Nancy Pesta comments *we have a long-tarred driveway. We could use something else to help reduce impervious surface calculations.*

Board member Cooley asks if staff can explain the storm water management plan in reference to impervious surface.

Director Green comments *if the impervious surface calculation was 37% is like 77 percent increase compared to what would be permittable.*

Board member Isdhal comments *does staff feel like you need more time to look at the septic design with number of bedrooms and possibly size for less bedrooms?*

Director Green comments *the septic system is something that our staff would address in the future. Tonights meeting is a varinace request relating to impervious surface area coverage. The Board is being asked to provide an impervious surface coverage percentage that would allow the property owner to develop to.*

Board member Cooley is looking at a point of reference from staff on impervious surface.

Director Green comments When considering this proposal, *It is as if we are going back to a blank slate and so a practical difficulty is hard to determine.*

Board member Barkeim comments *would it be better to table this item and have some ideas of pulling the number closer to 30%? It would give the applicants and staff more time to try and get the numbers closer.*

Board Chair Isdahl opened the hearing for public comment. Matt Schmidgall comments *I am not speaking opposed or in favor but just a comment. If the applicants owned land to the backside could that possibly give them more footage for impervious surface calculations?* Director Green comments *yes, it would be contiguous even though there is a road separating the parcels and would increase the square footage.* Applicant Patrick Walsh comments *we shouldn't be burdened with needing to purchase more land just to make this work. We are improving the character and moving the proposed home back further from the lake.* With no other comments from the public, the public hearing portion was closed.

The Board site team comprised of Board members, Kannegiesser, Cooley, and Messenger provided comment about their onsite observations with Kannegiesser commenting *I like that you are moving the house back further from the lake.* Messenger comments *I think we need more information to base our decision.*

Motion:

Board member Barkeim made motion to table this variance request until the next regularly scheduled meeting in order to give the applicant an opportunity to provide an updated stormwater management plan and to reconsider the septic system design. This motion seconded by Board

member Cooley. With no further discussion, motion carried with Kannegiesser opposed.

Adjournment

Motion by Board member Messenger to adjourn the Board of Adjustment meeting with a second by Board member Kannegiesser. Motion carried unanimously. Meeting adjourned at 7:12 p.m.

Respectfully submitted,

Shelley Retrum

Shelley Retrum/Sr Administrative Associate
Pope County Land & Resource Management