MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday, July 23, 2020

The Board of Adjustment convened in regular session on Thursday, July 23, 2020 at the Pope County Courthouse. In an effort to comply with MDH recommendations issued with the declared Peacetime Emergency in response to the spread of COVID-19 (coronavirus) in MN, the Board members convened in the Commissioners Board room while staff (Dir. Green), the applicants and any members of the public convened in the Community room.

Members Present: Roger Isdahl, Ronald Feigum, Ivie Cooley, John Messenger, and Brian Jergenson

Other Officials Present: David Green (Land & Resource Management Director), Jessica Hill (Land Use Specialist), Shelley Cameron (Sr. Administrative Associate), Larry Lindor (County Commissioner), and Cody Rogahn (County Commissioner)

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

Additions and Corrections to the Agenda

There was no additions or corrections to the agenda.

Review minutes of June 25, 2020

The minutes of the Board of Adjustment meeting that was held on June 25, 2020 were submitted for approval. Motion to accept the minutes as written was made by Jergenson. Seconded by Feigum. Motion carried.

Variance-David & Connie Paul

Chairman Messenger introduces the item. Applicants are not present. Director Green presents staff report and states "having reviewed and considered the application, staff does not object to the issuance of a variance for a second water-oriented accessory structure (WOAS) provided that it is constructed and located in compliance with section 4.6.17 of the Land Use Controls Ordinance. If the Board of Adjustment (BOA) does grant a variance to the applicant, staff recommends conditions stated in staff report." Commissioner Rogahn asks staff "does it meet all the "practical difficulties"? Direct Green states "we have provided findings that would support the variance." There is discussion on the pavers and how close it would be allowed. Director Green comments, that there are standardized guidelines which will limit it to 250 square feet and cannot exceed 4 feet in width. The landing is limited to 32 square feet. Cooley has concern about approving a variance that conflicts with the comments from the DNR. Chairman Messenger asks for a review of Staff Findings. Director Green reviews Staff Proposed Findings and indicated that these Findings do not conflict with the comments received from the DNR based on DNR comments stated as such, "If the BOA finds the project meets all five variance criteria and documents their decision with findings, a condition should be placed on the permit that the new water oriented structure must meet all the design standards for water oriented structures outlined in the Pope County Shoreland Ordinance." Chairman Messenger opens to the public asking "is there anyone speaking in favor of this variance?" None noted. Chairman Messenger asks "is there anyone speaking against this variance?" None noted. Chairman Messenger closes the public hearing. Chairman Messenger asks for comments from the site team. Feigum (site team) has concern with being a high bank and controlling the water runoff. Cooley (site

team) states "I have two issues with it. You are asking for a second WOAS and when I looked at the first one I noticed it was on skids. At a minimum I would recommend moving this farther back from the lake and then it may not be considered as a WOAS. I also have a problem with the size of it. It is not within what we revised the ordinance to be 250 square feet with no more than 4 foot sidewalls. I think the drawing and the information submitted by the applicant is inadequate." Chairman Messenger (site team) states "I have to agree it appears it will be too large and too close. I do like the idea of the proposed rip rap because there is a lot of erosion on the lakeshore. I do like the alternate proposal made by staff with conditions stated in staff report." Chairman Messenger seeks a motion. Jergenson states "I make a motion to approve as long as they move the first WOAS back behind the 100 foot setback and build the patio on the level ground behind the 1398 contour line with the size restricted to 250 square feet. Cooley seconded. After further discussion, Jergenson withdraws his motion. Cooley withdraws her second to the motion. Isdahl states "I make a motion to deny variance request as presented." Jergenson seconded. Motion carried with no dissenting votes noted. Chairman Messenger seeks a second motion to direct staff to create Findings consistent with the action taken by the Board tonight. Cooley makes a motion to approve. Feigum seconded. Motion carried with no dissenting votes noted.

Variance-Thomas & Arlene Bowen

Chairman Messenger introduces the item. Applicants Thomas & Arlene Bowen are present. Director Green presents staff report with a recommendation to approve the application with conditions. Chairman Messenger asks for any additional comments from the applicant. Applicant Arlene Bowen states "I think Mr. Green covered it well. We are looking to put our vehicles, boats and such in the garage. Our intent is to make this our permeant residence in the next few years." Chairman Messenger opens the public hearing asking "is there anyone speaking in opposition of this application?" None noted. Chairman Messenger asks "is there anyone speaking for this application" None noted. Chairman Messenger closes the public hearing and states "I would like to make mention of a letter received supporting the Variance request from the neighbors immediately to the west." Comments from the site team indicate that they have no objections or concerns. Chairman Messenger asks for a review of Staff Findings. Director Green reviews Staff Proposed Findings. Chairman Messenger seeks a motion. Feigum states "based upon the information as presented in the staff report and facts as gathered this evening, I move to approve of the variance request to locate an accessory structure at five feet from the side line, limited to the conditions as identified in the staff report. Cooley seconded. Motion carried with no dissenting votes noted.

Variance-Neil Durham

Chairman Messenger introduces the item. Applicant Neil Durham is present. Director Green presents staff report with a recommendation to approve the application with conditions. Chairman Messenger asks for any additional comments from the applicant. Applicant has no comments to add. Chairman Messenger opens the public hearing and asks "is there anyone speaking in opposition of this variance?" None noted. Chairman Messenger asks "is there anyone speaking in favor of this variance?" None noted. Chairman Messenger closes the public hearing. Comments from the site team indicate that they have no objections or concerns. Chairman Messenger asks for a review of Staff Findings. Director Green reviews Staff Proposed Findings. Chairman Messenger seeks a motion. Jergenson states "based upon the information as presented in the staff report, I move to approve of the variance request to reconstruct residential structure with attached garage at reduced setbacks as

identified in the submitted site plan limited to the conditions as identified in the staff report." Cooley seconded. Motion carried with no dissenting votes noted.

Variance-John & Kim Fragodt

Chairman Messenger introduces the item. Applicants John & Kim Fragodt are present (electronically). Director Green presents staff report and states "having reviewed and considered the application, staff does not come to the conclusion that the property owner has established that a ""practical difficulty" exits. Specifically, the owner has not effectively provided evidence of the unique nature of the property, that was not self-created, that prevents compliance with the standard. If the BOA does grant a variance to the applicant staff recommends conditions stated in staff report." Isdahl asks if it is currently asphalt or concrete. Staff confirms that it is asphalt with a concrete apron in front of the garage. Isdahl also asks if the proposed basins were part of the original design or submitted later. Director Green reiterates that the basin is part of the proposal to mitigate the additional storm water that will run off. Chairman Messenger opens the public hearing asking "is there anyone from the public speaking against this application?" None noted. Chairman Messenger asks if there is anyone speaking in favor of this application?" None noted. Chairman Messenger closes the public hearing. Chairman Messenger asks for comments from the site team. Feigum (site team) states" it is a small and has a lot of stuff on it. The basin that they are going to create is pretty close to the property line." Applicant John Fragodt asks the Chair if he can mention one thing please. The Chair concedes that he may. Applicant John Fragodt states "I would just like to mention that it does look like a crowded lot but the fact is we are still only either 2 or 3% over the 25% allowed. So we are not asking for a lot. From the architect who developed the storm water management plan he said the rain water basin will handle that amount no problem and it should be able to be incorporated in that area no problem. Thank you." Cooley (site team) states "as far as the uniqueness there was mention that a pervious stone or something more pervious could solve this problem rather than the direction they are going." Chairman Messenger (site team) states "I would have to agree with this assessment." Applicant John Fragodt states "to put a turf stone next to the current asphalt might not look very good. If the Board does have a problem with this, one option we had looked at was to just keep the driveway as is and not add the triangle on. I would like to have the triangle on to have it look better in regards to the whole neighborhood but I am happy with whatever the Board decides." Chairman Messenger asks for a review of Staff Findings. Director Green reviews Staff Proposed Findings. Isdahl has a question for staff in which the engineering study shows that building the catch basin makes an effective impervious surface equivalent to approximately 17.6% and is this engineering recognized by the County. Director Green states "the professional engineer did a review and put together this storm water management plan and we are comfortable with the design as presented." Cooley asks "when the garage was built, was it was over the 25% impervious." Director Green states "yes, when the permit was approved there was a condition identified on the permit that stated that the owner would need to put turf stone like pavers or something similar to keep in balance with the 25% or would need to seek a variance, which is why we are here." Chairman Messenger seeks a motion. Jergenson states "I move to approve the variance request to allow for impervious surface coverage in excess of 25% limited to the conditions as identified in the staff report and as amended this evening to include a catch basin." Isdahl seconded. Isdahl, Jergenson and Messenger vote in favor. Cooley and Feigum opposed. Motion fails. Cooley states "based on the staff recommendation that staff does not come to the conclusion that the property owner has established a "practical difficulty" I make a motion to deny. Feigum seconded. Jergenson, Feigum, Cooley and Messenger vote in favor. Isdahl opposed. Motion carried. Chairman Messenger seeks a second motion to direct

staff to create Findings consistent with the action taken by the Board tonight. Cooley makes a motion to approve. Feigum seconded. Motion carried with no dissenting votes noted. Applicant John Fragodt asks if he may comment to the Board. The Chair concedes. Applicant John Fragodt states "thank you so much for your time tonight. I guess I am a little disappointed after so much discussion it seems like you were really leaning towards the rain basin and in fact you had a 3 to 2 decision so I guess I am disappointed that basically it came down to one of your members not being there that possibly took the vote away from me. I guess what I hoped for was maybe you would table this action until you had all six members present. That is all I wanted to say. Thank you."

Tabled/Old Business

There was no tabled or old business.

Adjournment 7:45 p.m. Motion by Jergenson to adjourn the Board of Adjustment meeting. Motion Seconded by Isdahl. Motion carried with no dissenting votes noted.

Respectfully submitted,

Shelley Cameron

Shelley Cameron/Sr. Administrative Associate
Pope County Land & Resource Management