MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday October 27, 2022

The Board of Adjustment convened in regular session on Thursday, October 27, 2022 at the Pope County Courthouse, 3rd floor Board Room.

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

Other Officials Present: David Green, Jessica Hill and Ariel Hughes, (Land & Resource Management, staff), 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 were no additions or corrections to the agenda.

Review minutes of September 22nd 2022 Regular Meeting

The minutes of the Board of Adjustment meeting that was held on September 22nd, 2022 were submitted for approval. Motion to accept the minutes as presented was made by Feigum and seconded by Messenger. Motion carried with no dissenting votes noted.

General Business

Director Green comments on the role of the Board of Adjustment and the standard by which variance requests are to be measured. The proposed variance cannot be in conflict with the comprehensive plan and that the applicant needs to establish that a "Practical Difficulty" exists. Director Green reiterates that a "Practical Difficulty" includes establishment of Reasonable Use, Unique feature, and Essential Character and concludes with comment that in order for an application to be approved it would need the approval of a majority of all members, *so that means four Board member in support of the variance request*.

Tabled/Old Business

There was no tabled or old business to act upon.

New Business

Variance, applicant Earl Schaub, Oak Ranch LLC (PID 13-0126-000)

Chairman Isdahl introduces the item followed by a staff report as presented by Director Green. In conclusion Director Green stated that staff does not object to the issuance of a variance in this case provided that the conditions, as submitted by staff, are considered.

1. That the cold storage/machine shed building is to be located at no closer than 150 feet from OHWL.

2. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure that the variance holder is in compliance with the conditions imposed and all other applicable statutes, rules and ordinances.
3. That the property owner is responsible for reaching out to the Township to ensure compliance with any Township standards.

Schaub is offered an opportunity to comment on the variance request. He mentions that the identified location is the most logical spot for the building as it would require minimal disturbance relating to grading and fill in the shoreland area. The spot is relatively flat and offered ease for getting machinery in and out. At 6:09 pm, Chairman Isdahl opens a public hearing and seeks comments. There were no comments offered from the public in attendance, for or against the proposal at this time. The Public Hearing was followed by a site visit report. Messenger concurs with the site limitations. Feigum agrees and Kannegiesser states that *it's an ideal spot for the structure*. At the conclusion of the site visit report there was brief discussion followed by the following motion to approve of the variance by Feigum: *Based upon the information and conditions as presented in the staff report, and facts as gathered this evening, I move to approve of the variance request.* Motion is seconded by Cooley. Motion passes unanimously.

Findings are prepared as follows:

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

   Finding: The Minnesota DNR Shoreland Rules Ch 6120 as well as the Pope County Land Use Controls Ordinance regulate the location of structures 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 this structure does not create an aesthetic issue as there is no boating public or neighboring property owners that may be impacted and is not in conflict with the Pope County Comprehensive Plan. The locating of the cold storage/machine shed building 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:**

   Finding: Locating a cold storage/machine shed building is a reasonable and permissible use in all Shoreland zoned districts.

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

   Finding: The proposed use of this property to locate a cold storage/machine shed building is consistent with existing uses on this property. There are no neighboring properties affected by this land use. Therefore, there is no change in 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 unique circumstance that contributes to the need for the variance relates to the function of the proposed structure and the topography of the parcel. The chosen location requires the least amount of grading and fill and therefore results in the least impact to existing

topography. At the proposed location for the structure, there is no impact to the sensitive water feature.

Variance, applicant Kent Lundblad on behalf of Jason and Nicole Killey, (PID 02-0491-000)

Chairman Isdahl introduces the item followed by a staff report as presented by Director Green. In conclusion, Director Green stated that staff does not object to the issuance of a variance in this case provided that the conditions, as submitted by staff, are considered.

1. That the property may not be used for vacation or short-term rental purposes.
2. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure that the variance holder is in compliance with the conditions imposed and all other applicable statutes, rules and ordinances.

The applicant is offered an opportunity to comment on the variance request. Lundblad explained the difficulty relating to high groundwater levels and the size of the septic systems. At 6:20 pm, Chairman Isdahl opens a public hearing and seeks comments. There were no comments offered from the public in attendance, for or against the proposal at this time. The Public Hearing was followed by a site visit report. The Public Hearing was followed by a site visit report. Kannegiesser stated *not much room.* Feigum agrees. Messenger states that *these skinny little lake lots can cause a lot of problems.* Motion to approve of the variance by Messenger with a second by Kannegiesser. Motion passes unanimously.

Findings are prepared as follows:

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

   Findings: 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. This section of the local ordinance incorporates by adoption, the Minnesota Administrative Rules 7080-7082. The primary purpose of these regulations is to protect surface and groundwaters from contamination by human sewage. The requested variance will not conflict with the stated purpose.

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

   Findings: A properly functioning onsite septic system is not only reasonable but is required for this property.

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

   Findings: The septic system has been upgraded and therefore 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:**

   Findings: The septic tank capacity variance is a result of topographic and hydrologic limitations on the parcel. In addition, the size of the parcel in relation to previous development decisions has also caused severe limitations in regard to location and placement.

Variance, applicant Samuel and Mary Strickler (PID 09-0392-000)

Chairman Isdahl introduces the item followed by a staff report as presented by Director Green. In conclusion, Director Green stated that staff does not object to the issuance of a variance in this case provided that the conditions, as submitted by staff, are considered.

1. That the small accessory structure shall not encroach any closer than 75 feet from the OHWL and be clad in natural or earth-tone type colors (greens/browns).
2. That the RV (regardless if described as a "Park Model") shall not encroach any closer than 125 feet from the OHWL.
3. That prior to bringing the RV onsite, the owner is to be compliant with section 10.15 of the Land Use Controls Ordinance relating to locating of RVs onsite.
4. The issuance of this variance does not include vegetative removal or topographic alterations. Those would need to be approved though a Shoreland Alterations permit.
5. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure that the variance holder is in compliance with the conditions imposed and all other applicable statutes, rules and ordinances.
6. As this application is being considered based upon standards and procedures as established by the Pope County Land Use Controls Ordinance, the effect of this Variance is specific to those standards.
7. That the property owner is responsible for reaching out to the Township to assure compliance with any Township standards.

The applicant is offered an opportunity to comment on the variance request. Applicant states his history of ownership and use of the property. He had been contacted by our office as a result of unpermitted onsite uses that staff noticed during a soil verification meeting at the site. He said that he worked quickly to abate the nonpermitted uses which included removing as many three RVs and a small storage shed from the site. He is seeking to relocate an 8 x 12 shed to its previous location at approximately 75' from the OHWL. He also described that he may want to relocate an RV on the site but that the identified location was less than 200' from the OHWL. At 6:31 pm, Chairman Isdahl opens a public hearing and seeks comments. There were no comments offered from the public in attendance, for or against the proposal at this time. The Public Hearing was followed by a site visit report. Feigum states that *it's a little area and its wet* agrees. Kannegiesser stated that he had *no issues of where shed will go.* Messenger agrees with with the other site team members stating that *pretty much bound by the topography*. Halls asks about location of septic system. Strickler describes the septic system plan. Motion to approve of the variance by Kannegiesser with a second by Feigum. Motion passes unanimously.

Findings are prepared as follows:

5. **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 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 either of these structures 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 recreational vehicle structure at a reduced setback distance will not impact the hydrology or natural characteristics of the riparian area of the lake.

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

   Findings: Locating a small storage structure and a recreational vehicle onsite is a reasonable and permissible use in all Shoreland zoned districts.

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

   Findings: The proposed use of this property to locate an onsite recreational vehicle and small accessory structure is consistent with existing uses on other properties around the lake. Therefore, there is no change in character of the locality nor shall there be a detriment to the neighboring properties.

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

   Findings: The unique circumstance that contributes to the need for the variance relates to the dimensional limitations of the parcel.

Adjournment

Feigum offers a motion to adjourn that was seconded by Kannegiesser. The motion is supported unanimously. Therefore, Chairman Isdahl adjourns the Board of Adjustment meeting at 6:40 pm.

Respectfully submitted,

David J. Green

David Green/Director
Pope County Land & Resource Management