MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday June 22, 2023

The Board of Adjustment convened in regular session on Thursday, June 22, 2023 at the Pope County Courthouse, 3rd floor Meeting Room.

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

Other Officials Present: David Green (Land & Resource Management Director), Jessica Hill (Land Use Specialist II), Shelley Retrum (Sr. Administrative Associate), 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. A motion to accept the agenda as prepared was made by Messenger and seconded by Cooley. Motion carried with no dissenting votes noted.

Review minutes of May 25, 2023

The minutes of the Board of Adjustment meeting that was held on May 25, 2023 were submitted for approval. Motion to accept the minutes as written was made by Barkeim and seconded by Cooley. Motion carried with no dissenting votes noted.

General Business

Land & Resource Management Director Green briefed the Board and applicants in regard to the role of the Board of Adjustment and the standards for establishing a "practical difficulty".

Tabled/Old Business

There was no tabled or old business to discuss.

New Business

Variance #23119, applicant Stryhn, LLC on behalf of Shomer Ahava, LLC (PID# 09-0590-002 & 09-0023-005)

Applicants are proposing a lot line adjustment which will reconfigure the two existing parcels into Parcel A, 0.91 acres, and Parcel B, of 0.87 acres. Chairman Isdahl introduces the item followed by a staff report as presented by Land Use Specialist II, Jessica Hill. The report did include any agency and public comments received prior to the meeting date. After reviewing the lot area standard identified in the Land Use Controls Ordinance, and a discussion of the proposed development of the parcel, Jessica Hill 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. The applicants Russ Hilk (Shomer Ahava) and Brendon Stryhn were offered an opportunity to defend their variance request. Brendon Stryhn comments *staff presented it well and I have been working with the Land & Resource Management staff*

for close to a year to find the best resolution to this. We think that this is more in line with the neighborhood instead of a mega mansion and is the best solution. Board members asked some questions regarding easement and building plans. 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. The Public Hearing was followed by a site visit report as presented by Messenger, Kannegiesser and Barkeim. The site team stated *it seems like a logical approach and a reasonable solution.* At the conclusion of the site visit report there was brief discussion followed by the following motion to approve of the variance by Messenger: *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 to reduce the minimum lot width by 11 feet.* Motion is seconded by Barkeim. Motion passes unanimously. Conditions include:

- The proposed parcel boundaries will be as presented in this staff report.
- A minor subdivision will be applied for through the Pope County Land & Resource Management department.
- Each parcel must have adequate soils for an onsite septic system.
- Each parcel must have a conforming building envelope where a variance would not be necessary for the locating and construction of a residence.

With Findings as follows:

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

   Findings: The proposed lot line adjustment would be consistent with the purposes and intent of the official controls and the comprehensive plan as the existing riparian lot currently is a nonconforming parcel and that lot line adjustment which is proposed will not create any additional lots or parcels, it will only adjust the existing nonconformity so that one parcel will be completely conforming while the other will conform in all aspects except width. Minnesota Stature 394, Section 394.36 identifies minimum performance standards relating to the sale or development of nonconforming parcels which include specifying that a parcel must be at least 66% of the dimensional standard for lot width and lot size, is suitable for a Type I septic system and does not exceed 25% impervious surface. Each of the proposed parcels meet these minimum standards.

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

   Findings: The adjustment of lot lines for the purpose of creating a more conforming lot as it relates to development potential is reasonable.

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 recreational and seasonal 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 existing riparian parcel does not allow for development of said parcel as it is undersized. Therefore, the lot line adjustment which will readjust the parcel boundaries, will create one fully conforming parcel, with the second parcel more conforming that it was previously with it meeting the lot area dimension and being approximately 10 feet lees than the minimum lot width standard.

Variance #23116, applicant Shawn Grossman (PID# 09-0356-000)

Applicant is seeking to locate a 12 foot by 20 foot accessory structure near the edge of a steep embankment. The proposed location is within a bluff impact zone. Chairman Isdahl introduces the item followed by a staff report as presented by Land Use Specialist, Jessica Hill. The report did include any agency and public comments received prior to the meeting date. Having reviewed and considered the application, local ordinances, and state statutes, staff does not object to the issuance of a variance in this case. The applicant was offered an opportunity to defend his variance request. Grossman introduces himself as the property owner and comments *that the structure will be built on skids and set on concrete pads for leveling purposes. Additionally, there was a structure located there before we owned the property but we had to take it down because it was shaky. The flat top of my property has my septic and there is really now where else to locate it. The rest of the property is steep.* At 6:22 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. The Public Hearing was followed by a site visit report as presented by Messenger, Kannegiesser and Barkeim. The site team stated *it is the best spot for it and there was previously a building there.* They did not identify any impact that may result from the issuance of a variance in this case. At the conclusion of the site visit report there was brief discussion followed by the following motion to approve of the variance by Barkeim: *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 to locate a shed structure within the Bluff Impact zone.* Motion is seconded by Halls. Motion passes unanimously. Conditions include:

- That the variance is specific only to the storage structure as proposed.
- Parcel is to be compliant with the impervious surface standard which limits such coverage at 25% of the parcel size, unless a variance has been issued specific to that standard.
- That the property owner is responsible for reaching out to the Township to assure compliance with any Township standards.
- That prior to any construction activities, the owner or identified contractor, secures an accessory structure/construction activity permit from the Land & Resource Management Department.
- 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.

With Findings 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. Regarding structure location, there are identified regulated setback dimensions established for each particular zoning district. The purpose of the required setback is to provide for yard space such that there may be assurance of adequate light, air, privacy and safety. In addition, there are other "use specific" standards established for purposes of maintain neighborhood character and esthetics. The location of this structure as proposed will not impact adequate lighting, air or privacy nor should it impact the integrity or stability of the bluff feature.

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

   Findings: An accessory structure, such as a storage structure, is a reasonable and permissible use in a Shoreland-General Development zoned district.

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

   Findings: The structure is not inconsistent with other uses and development in the neighborhood. 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:**

   Findings: The contributing circumstance dictating the need for the variance is the location of a previous storage structure which was previously located in the proposed location, but subsequently was removed. Therefore, the proposed location previously housed a storage structure with little effect to the surrounding area. Other areas on the parcel include steep slopes and the onsite sewage treatment system which preclude the location of a storage shed elsewhere than that which is proposed.

Variance #23114, applicant Marcus & Kaley Litwiller (PID# 16-0025-000)

The applicants are requesting a variance to the reciprocal feedlot setback standard as specified in section 7.6.E of the Pope County Land Use Controls Ordinance. Chairman Isdahl introduces the item followed by a staff report as presented by Land Use Specialist, Jessica Hill. The report did include any agency and public comments received prior to the meeting date. Having reviewed and considered the application, local ordinances, and state statutes, staff does not object to the issuance of a variance in this case. The applicant was offered an opportunity to defend his variance request. Marcus Litwiller introduces himself as the property owner and comments *that staff presented it well. I would just add that I spoke with the nearest neighbor and they did sign a waiver to the reciprocal setback.* At 6:26 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. The Public Hearing was followed by a site visit report as presented by Messenger, Kannegiesser and Barkeim. The site team stated *it appears to be*

far enough off the road and the neighbor has signed the reciprocal waiver. Site team does not see any concerns with it. At the conclusion of the site visit report there was brief discussion followed by the following motion to approve of the variance by Halls: *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 to locate a feedlot facility at less than the minimum required setback from an existing residential structure.* Motion is seconded by Messenger. Motion passes unanimously. Conditions include:

- The proposed feedlot may not be located any closer than 980 feet from the non-farm residence.
- That prior to any construction activities, all necessary permits are secured from Township, County and State Agencies.

With Findings as follows:

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

   Findings: The purpose of the required setback for feedlots from non-farm residences is to reduce odor, noise and visual impacts; provide for potential expansion of feedlots; and to preserve the neighborhood character and aesthetics. The proposed location of the feedlot is approximately 980 feet from the existing non-farm residence. It is not likely that allowing the feedlot will create a hazard to neighbors.

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

   Findings: Feedlots are reasonable and permissible uses in the Agriculture Protection zoning district.

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 open space and agricultural 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 include various factors that have contributed to the proposed location. These factors include the utilization of an existing road access approach; poor soil conditions for crop production at the top of the hill provides a location where the land could more effectively be utilized and where stormwater can more easily be managed; the location away from travelling public and the Litwiller home site provides for a buffer for disease control and public safety.

Variance #23101, applicant Steve Aaberg (PID# 14-0093-000)

The applicant is requesting consideration to construct/locate a non-farm residential structure in an Agriculture Protection (A-2) zoning district where there already exists another non-farm residence in the same quarter section. Chairman Isdahl introduces the item followed by a staff report as presented by Land Use Specialist, Jessica Hill. The report did include any agency and public comments received

prior to the meeting date. Having reviewed and considered the application, local ordinances, and state statutes, staff does not object to the issuance of a variance in this case. The applicant was offered an opportunity to defend his variance request. Steve Aaberg introduces himself as the property owner and comments *I would like to thank the Board for their time and consideration tonight. I really do not have anything to add to what staff has presented. I am here to answer any questions you may have. At 6:45 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. The Public Hearing was followed by a site visit report as presented by Messenger, Kannegiesser and Barkeim. The site team stated *he has made improvements and I don't think it will be visible from the road. There is no farm production land being taken away. Site team does not see any concerns with it.* At the conclusion of the site visit report there was brief discussion followed by the following motion to approve of the variance by Kannegiesser: *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 allowing for a second nonfarm residential structure to be located in the same quarter section.* Motion is seconded by Cooley. Motion passes unanimously.

With Findings as follows:

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

   Findings: The purpose of limiting the number of non-farm residences in an Agriculture Protection zone is for preservation of prime agricultural soils and to reduce conflict with neighboring farming operations. In this instance, the soils are not particularly suited for crop farming. The nearest livestock operation is over 2,700 feet away. The Comprehensive Plan does indicate a growing concern regarding population decline in rural areas and a desire for development of non-farm homestead in the rural areas.

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

   Findings: A rural residence is a common use on agriculture lands in Pope County.

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.

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

   Findings: The property owner is burdened by limitations prescribed in the Land Use controls Ordinance. The limitation imposed by the ordinance is for the protection of agricultural operations. That does not appear to be a concern in this instance as this property is not well suited for cropping purposes. The property owner can meet all other identified performance standards.

Adjournment 6:48 p.m. Motion by Barkeim to adjourn the Board of Adjustment meeting with a second by Messenger. Motion carried with no dissenting votes noted.

Respectfully submitted,

Shelley Retrum

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