MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday July 27, 2023

The Board of Adjustment convened in regular session on Thursday, July 27, 2023 at the Pope County Courthouse, 3rd floor Meeting Room.

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

Other Officials Present: David Green (Land & Resource Management Director), Shelley Retrum (Sr. Administrative Associate), Larry Lindor (County Commissioner), 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 Barkeim. 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 June 22, 2023 were submitted for approval. Motion to accept the minutes as written was made by Barkeim and seconded by Messenger. 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 #23162, applicant Stryhn, LLC on behalf of Aaron & Jennifer Erickson (PID# 09-0133-144)

Applicants are seeking permission to install a septic system at less than the minimum required setback distance between a drainfield and an inhabited structure. Chairman Isdahl introduces the item followed by a staff report as presented by Director Green. The report did include any agency and public comments received prior to the meeting date. Having reviewed and considered the application, local ordinances, state statutes, and all comments received, staff does not object to the issuance of a variance in this case provided that the proposed septic drainfield may not be located any closer than 9.8 feet from the overhang of the residential structure. The applicant Brendon Stryhn was offered an opportunity to defend their variance request. Brendon Stryhn comments *staff presented it well. The overhang for the eaves is 10 feet away and 12 feet to the corner. Due to the topography, we are the third contractor the land owners have worked with to try and fit this on the lot.* 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 *the description is accurate as far as being a unique lot. The septic design is taking this all into consideration. It is definitely a usable spot and great place for a home. If you can fit a septic and a house 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 allow applicants to install a septic system at less than the minimum required setback distance between a drainfield and an inhabited structure.* Motion is seconded by Kannegiesser. Motion passes unanimously. Conditions include:

- The proposed septic drainfield may not be located any closer than 9.8 feet from the overhang of the residential structure.

With Findings as follows:

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

1. **Findings:** The purpose of the required setback for a septic drainfield from a residential structure is to protect public health and safety; protect groundwater and surface water resources; provide for maintenance of the septic system and/or the residential structure; and to preserve the neighborhood character and aesthetics. The proposed location of the septic drainfield is approximately 9.8 feet from the residential structure. It is not likely that allowing the location of the septic drainfield will create a hazard to public health and safety.

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

   Findings: Septic drainfields are a component in individual subsurface sewage treatment systems and 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 shoreland/recreational 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 topographically challenged with bluff and steep slopes that limit space to place septic system components, residential structures and wells on site to meet all required setbacks.

Variance #23157, applicant Marvin Sandvig (PID# 20-0203-001)

Applicant is seeking to locate a structure at approximately 75 feet from the center of 335th Street, a Township road located in Section 32 of Lake Johanna Township in Pope County. The proposed location of the structure would encroach approximately 25 feet into the required setback of 100 feet from the road centerline. Chairman Isdahl introduces the item followed by a staff report as presented by Director Green and comments *the applicant was previously granted a variance for this structure with a condition that it would be constructed within one year. It was not done within the year timeframe and so this is why we are here tonight.* 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 find that the applicant has established that a practical difficulty exists. The applicant was offered an opportunity to defend his variance request. Sandvig introduces himself as the property owner and comments *two years ago we had permission from the Board but I couldn't find a builder and so this is why I am here tonight.* Barkeim asks the applicant *the size of the structure is smaller than the initial structure that was previously approved?* Applicant Sandvig responds *it will be smaller. The size will be 50' x 50'.* Commissioner Lindor asks *is there a reason you cannot meet the setbacks?* Applicant Sandvig responds *the ground drops off there which makes it difficult to meet the setback.* Chairman Isdahl opens a public hearing and seeks comments. John Moe comments *I am here tonight representing Lake Johanna Township. The original proposal Marvin (Sandvig) was looking at was for taking apart automobiles for salvage and it was for personal use. The township has some issues with this new proposal for a repair shop. The township will need to look into this further. If Marvin (Sandvig) uses it for personal use the township has no concerns but if it will be for a commercial use the township has issues with storage and disposal of automotive fluids.* John Wordes comments *I am the neighbor and I was against it for an auto salvage yard. You can still count the cars and nothing has been done. You can drive by his auto repair place in New London and it will look just like that. It also is too close to my well.* Kenton Anderson comments *I want all of you to think about where John Wordes lives and what this is going to do to his resale if this was allowed.* John Moe comments *Marvin (Sandvig) removed about 250 cars out of there. The biggest concern the Township has is in reference to the cars that are there now and the fluid disposal. I met with Marvin (Sandvig) and said that the Township doesn't have a problem with a repair shop but with the cars that are currently there and if they are following the rules as far as numbers of allowed cars and the disposal of fluids.* Chairman Isdahl closes the public hearing. There is a brief discussion if there are any township ordinances in place for salvage yards/auto repair shops as to the number of cars allowed and a discussion about performance standards for salvage yards. Chairman Isdahl asks if the applicant has anything to add after comments made by the public. Applicant Sandvig comments *we are down to about 60 cars currently. I would like to down size from my shop in New London. It would not just be for automobiles but for Ag repair as well.* The Public Hearing was followed by a site visit report as presented by Messenger, Kannegiesser and Barkeim. The site team stated *it is a big lot and the road doesn't get a lot of traffic. As far as a place to put a structure it looks fine. You would have to add a lot of fill if you located it elsewhere. It looks considerably different with improvements from the last time we were there for site visits. The applicant has done a nice job of cleaning it up.* John Wordes comments *why can't this be built on the south side of the road.* Applicant Sandvig comments *the south side of the road is the only favorable field that I have and there are no trees located there so there would be no buffer. I did plant a lot of trees to help with the neighbor and I cannot see his house from our property so I am not sure how he can see mine.* 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 request to locate a structure at less than the minimum required setback from centerline of a township road.* Motion is seconded by Kannegiesser. Motion passes with Messenger opposed. Conditions include:

- That the variance is specific to the proposed structure being located at 75 feet from the centerline of 335th Street and does not include additional expansion of the structure that would encroach further into the road setback.

- 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.
- That prior to any construction activities, all necessary permits (relating to the construction and location of the structure) 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 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 75 ft from the centerline of the road. 335th Street is a township-maintained road and has been designated as part of the Glacial Ridge Scenic Route. It is not likely that allowing the structure will create a hazard to motorists using the adjacent road. However, depending upon the purpose and use of the structure it may have an impact on the character and aesthetic of the locality.

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

   Findings: Garages, storage structures and machine sheds structures are reasonable and permissible uses in Agricultural zoned districts.

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

   Findings: 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. There are several other property owners along this roadway that have structures located at less than 100 feet from the centerline of the roadway. So, the encroachment by a structure as proposed, is not unique in this locality. However, depending upon the proposed use for the building, there may be impacts suffered by the adjacent property owner as well as the traveling public. Such impacts may include visual and noise impacts.

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 that owner wants to utilize the historic structure location because the building pad and associated driveways have been previously established. This is on the north side of the roadway, where the topography of the parcel also inhibits the placement of the proposed structure at the full 100 foot setback as the land slopes down quite quickly to the slough that lies to the north of the proposed site. There is open undeveloped land on the south side of the roadway. However, development of this area would require quite a bit of excavation and disruption of the open prairie area. Therefore, the variance request is based on reuse of an already disturbed area and desire to preserve the

undeveloped land to the south.

Adjournment 6:36 p.m. Motion by Barkeim to adjourn the Board of Adjustment meeting with a second by Kannegiesser. Motion carried with no dissenting votes noted.

Respectfully submitted,

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