POPE COUNTY
MINNESOTA

MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday, July 25, 2024

The Board of Adjustment convened in regular session on Thursday, July 25, 2024 at the Pope County Courthouse, 3rd floor Meeting Room.

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

Other Officials Present: David Green (Land & Resource Management, Director), Jessica Hill (Zoning Administrator), Ariel Hughes (County Feedlot Officer/Land Use Specialist 1), Galen Gruber (Land Use Specialist II), 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 June 27, 2024 Regular Meeting of the BOA

The minutes of the Board of Adjustment meeting that was held on June 27, 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

Variance #24050, applicant **Kenneth Moe** (absent) PID# 08-0183-000 tabled from April 25, 2024, May 23, 2024, and June 27, 2024.

Director Green provided a brief overview of the progress of this variance request, noting that the applicant believes that he intends to comply with structural setbacks. Director Green discussed the need for the Board to act within the 60-day statutory timeline and that the applicant's decision to comply with structural setbacks does not change staff's recommendations.

Discussion about the consequences of denying the applicant's request in regards to re-application timeframes.

Motion:

Board Member Barkeim made a motion to deny the applicant's request. Motion seconded by Board member Cooley. With one (1) opposed and five (5) in favor, the motion carried with the findings 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 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 location of the proposed structure in relation to the road right-of-way is not consistent with the intent of the local ordinance and would be unique in this neighborhood.
2. **Use of property/structure is a reasonable use:**
   Finding: A storage structure is not uncommon in shoreland areas. However, the size, location and proposed construction materials is somewhat unique in this neighborhood.
3. **Character of locality and detriment to neighboring properties:**
   Finding: The structure is not consistent with other uses and development in the neighborhood. The combination of the materials (metal), the proposed size and the setback to the road right-of-way is fairly unique for this neighborhood. Therefore, the character of the locality may be altered with the construction of this storage structure at a reduced setback from the road right-of-way.
4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**
   Finding: The circumstances contributing to the need for the variance include that the parcel has limited developable area due to its irregular shape and required setbacks. However, this does not preclude the parcel from having a structure placed on it in conformance with the required setbacks.

New Business

Variance Request #24166, **Rademacher Dairy LLC** (present Aaron Rademacher) PID# 11-00114-004

Variance hearing on the request to construct a new liquid manure storage structure with a reduced setback to the road right-of-way from 200ft to 150ft and the property line setback from 50ft to 28ft within the Agricultural Protection (A-2) Zoning District.

County Feedlot Officer/Land Use Specialist Hughes presented the application and staff report.

Applicant Aaron Rademacher discussed the history of the existing manure storage facility stating that the existing facility only provided storage for three (3) weeks depending on the weather and the frequent need to empty the facility to provide additional storage does not allow them to utilize

the manure efficiently. The proposed design would provide fourteen (14) months storage. He said that he owns the property to the which he's requesting a reduced setback from.

Board member Cooley asked the applicant if the proposed structure would be constructed to MPCA standards. Applicant Rademacher answered that it would. County Feedlot Officer/Land Use Specialist Hughes said that the construction plans would be in compliance with both the MPCA as well as the NRCS standards.

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 Barkeim provided comment about their onsite observations stating that the proposed location appeared to be the logical location for the use, that there is vegetative screening onsite, and that the applicant owns the land to which a reduced setback is being asked.

Motion:

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

1. The design, construction and operation of the liquid manure storage basin must be in compliance with Minnesota Pollution Control Agency Rules, Chapter 7020.2100.
2. That the variance is specific to the proposed structure being located at 150ft from the road right-of-way of 10th avenue and does not include additional expansions of the structure that would encroach further into the road setback.
3. That the variance is specific to the proposed structure being located at 28ft from the north property line and does not include additional expansions of the structure that would encroach further into the property line setback.
4. 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.
5. That prior to any construction, all necessary permits (relating to the construction and location of the structure) are secured from Township, County, and State agencies.

This motion seconded by Board member Cooley. 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:**

   Finding: 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, with stricter setback standards for agricultural uses. The purpose of the required setback for agricultural 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 150 ft from the right-of-way of the road. 100th Avenue is a Township-maintained Road. The applicant will be able to access the basin utilizing an approach off of 100th Avenue. It is not likely that allowing the structure will create a hazard to motorists using the adjacent road as it is a minimally travelled road. The purpose of the required setback for agricultural uses from property lines is to protect personal property, neighboring properties, and to preserve the neighborhood character and aesthetics. It is not likely that allowing the structure will create a hazard to personal property or neighbors. As stated in the Pope County Comprehensive Plan, dairy operations are diminishing and it is of great importance to support the operators that are expanding to meet today's livestock industry standards.

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

   Finding: Liquid manure storage structures are reasonable and permissible uses in Agricultural Zoning Districts.

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

   Finding: 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. The feedlot has been located in its existing location for decades, with an expansion to the west ten (10) years ago. Therefore, the manure storage structure as proposed, will not be unique in this locality. An unofficial Odor From Feedlot Setback Estimation Tool (OFFSET) was performed for the liquid manure storage structure and the freestall barn; the closest residence (~2,000 ft) will be roughly 97% annoyance free.

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

   Finding: The circumstances contributing to the need for the variance include that the owner wants to construct the basin as close to the original manure source as possible to avoid excessive underground piping, to make certain setback distances from wells are met; and to ensure land is not taken out of crop production.

Variance Request #24168, **Lloyd & Rwanda Campbell** (present) PID# 08-0576-601

Variance hearing on a request to exceed the square footage limitation for a stairway access landing from 32 square feet to 250 square feet within the Shoreland General Development Zoning District.

Also present in representation of the applicant, was the applicant's contractor, Jerry Konz with JK Landscape Construction.

Zoning Administrator Hill presented the application and staff report.

The applicant was given an opportunity to address the Board. Jerry, the applicant's contractor, said that the applicant is not asking for a lot and are in need of a small sitting area.

Applicant Lloyd Campbell said that they were looking for accessibility and that they would like the landing area to allow them and their family to use the lake.

Board member Barkeim asked the applicant if there was any reason a 168 sqft. land would not work instead of a 250sqft landing. Applicant Lloyd Campbell said that they needed a larger landing to allow room for their family to fit.

Board member Halls asked the applicant if they had plans to fix the shoreline. Applicant Lloyd Campbell said that they plan to install rip rap.

Board Chair Isdahl opened the hearing to the public. Holly Konz with JK Landscape Construction spoke in favor of the landing stating that the applicants need it.

Board Site Team provided observations from their site visit. Board member Cooley said that what the applicant has now is dangerous and doesn't work. Board member Barkeim said that the lot is challenging and what the applicant wants is similar to the neighbor and so it will fit in [with the neighborhood]. Board member Kannegiesser said that the applicant should leave trees for privacy and that the lot has been neglected for years.

Board Chair asked Director Green about staff recommendation for a smaller patio size (168sqft.). Director Green noted that variances should be limited to the minimum amount necessary to alleviate the hardship and that the staff recommendation is consistent with that.

Board member Cooley asked about the setback to the OHWL. Director Green said that the setback would need to be 10 ft. Contractor Jerry Konz said that a reduced setback to the OHWL is not part of their request.

Board member Kannegiesser asked the applicant if 200 sqft. landing would be ok. Applicant Campbell said that 200 sqft. would be ok.

Motion:

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

1) That the structure cannot exceed 200 square feet in area
2) That the structure is to be located no closer than 10 feet from the OHWL.
3) The issuance of this variance does not include vegetative removal or topographic alterations. Those would need to be approved through a shoreland alteration permit.
4) 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 statures, rules and ordinances.
5) That the property owner is responsible for reaching out to the Township to assure compliance

with any Township standards.

This motion seconded by Board member Kannegiesser. 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 Chapter 6120 as well as the Pope County Land Use Controls Ordinance regulate the location and size of stairway landings 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 with the boating public or neighboring property owners and is not in conflict with the Pope County Comprehensive Plan. The locating of a larger stairway landing 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: Locating a stairway landing onsite is a reasonable and permissible use in all Shoreland zoned districts.

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

   Findings: The proposal to locate a stairway landing 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.

4. **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 topographical limitations of the parcel

Adjournment

Motion by Board member Kannegiesser to adjourn the Board of Adjustment meeting with a second by Board member Barkeim. Motion carried unanimously. Meeting adjourned at 6:49 p.m.

Respectfully submitted,

Galen Gruber, Land Use Specialist II
Pope County Land & Resource Management