

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, March 4, 2021 at 6:00 PM**

I. Call to Order

A. Roll Call

The meeting was called to order electronically by Chair Michael Streiff at 6:02 p.m.

Members present were: Michael Streiff, Preston Bauer, Charlie Peters, Jill Ellingson, John McCarthy.

Staff present were: Zoning Administrator Trent McCorkell, Planning Technician Julia Hogan, Administrative Coordinator Anna Aguilar.

Others present: see Registrant List.

B. Motion by Preston Bauer, seconded by Jill Ellingson, Reading of the Notice.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

C. Motion by Charlie Peters, seconded by Jill Ellingson, Approval of the Agenda.

RESULT: Approved, AYES: Jill Ellingson, Michael Streiff, John McCarthy, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

D. Motion by Jill Ellingson, seconded by John McCarthy, to approve the minutes of February 4, 2021.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

E. Motion by Charlie Peters, seconded by Preston Bauer, to approve the minutes of February 18, 2021.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

II. New Business

1. Variance/Kunkel - Section 27, Forest Township

Rod Kunkel has applied for a 5-ft variance from the 20-ft road right of way setback limitation and a variance to allow for placement and grading within a bluff and steep slope area to allow for a 22-ft by 28-ft garage building within a bluff area with an existing slope exceeding 18%, and 15-ft from the Road Right of Way of Fox Lake Trail. The property is described as: Outlot A, in Gillen's 2nd Sub-Division and Part of Lot 1, in Gillen's Sub-Division, Section 27, Forest Township, Rice County, Minnesota. The property address is: 13511 Fox Lake Trail, Faribault, MN 55021. PID#: 06.27.4.26.001. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by John McCarthy, to approve the Variance request with the following conditions and findings for Rod Kunkel. The property is located in Section 27 of Forest Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Kunkel - Variance

1. The variance is to allow for a 22-ft by 28-ft garage to be located 15-ft from the Fox Lake Trail Road Right of Way and for the placement of the garage and grading within a bluff area with an existing slope exceeding 18%, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Proper building permits shall be obtained prior to any onsite construction.
4. The remaining land on the bluff area and lakeshore, other than a 10-ft wide path for lake access,

shall be established and maintained in a non-mowed natural vegetative buffer condition.

5. At least 5 trees of a species native to Rice County shall be planted and maintained on the property between the proposed garage and Fox Lake. Trees shall have an initial planting height of 3-ft and shall be allowed to grow thereafter.
6. Variance shall be void if a building permit for the proposed garage is not obtained within one year of the variance approval.
7. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Planning Technician Julia Hogan (JH) presented the request to the Board of Adjustment (BOA).

The BOA asked the applicant, Rod Kunkel (RK), to come forward to add comments or answer questions regarding the request.

RK - We want to build a garage, so we can eventually permanently move to this property. Without a garage, that would not be feasible. I was advised by County Staff that it makes sense to get a variance approved first and then apply for the building permit and start working with contractors. I am very concerned about the steep slope and very much care about the lake quality, therefore I plan to take a lot of steps to preserve it as much as we can.

JM - This is one of the reasons why variances are permissible. You have a difficult site to work with and I think the solution is worthy of a variance. There is quite a bit of slope between the South corner of the garage and the North corner, between the driveway and the garage you will have some drainage issues coming down the hill into your neighbor's property. How do you plan to solve this issue?

RK - I am very concerned about that as well. I have talked with my neighbor and he is on the meeting tonight. The plan is to put at least one culvert in, possibly two, under my future driveway. One of the excavators I have talked to, has lots of experience and is very familiar with the area. We will rely on his expertise on how to properly place those and make sure they are the right size, so we can re-direct the water that would normally flow off of the road into that ditch, and runs North, downhill, would then go through the culvert(s) and down toward that slough minimizing erosion.

JM - I am concerned about the runoff from the gravel road, if there is any way to slow that down so the gravel does not all run off into Fox Lake with a heavy rain.

RK - I am concerned about it too. We have had this property since 1998 and when we get a heavy rain, we do get rock and gravel that runs down the ditch going North, there is already a culvert for an existing driveway. At some point, it veers off towards that slough by going to the lake. One of the benefits is that I have been very careful not to cut down trees. If you are on the lake in the Summer time, you cannot see our house and we are not very far from it. I prefer to keep it as natural as possible. Those trees and their root structure create a natural dam and slows down the water and accumulates the rock and dirt run off before it goes into the lake. This will be slightly disturbed by the construction but we plan to quickly restore it as soon as possible.

PB - Do you plan on paving the new driveway?

RK - My plan is for it to be rock.

PB - What is the impervious surface percentage on the lot? The lot is 28,000 sqft.

TM - As proposed, it is under the 25%.

PB - Are you familiar with the 7 conditions?

RK - I read them and did not have any concerns with them.

Chair Streiff opened the public testimony portion of the item to the public and the following spoke:

Jeff Flobeck - I am the neighbor just to the North, down the slope. I have been at this property for a little over 5 years and I have been fighting the erosion and run off since I moved here. I have talked with RK about it several times and we have come up with a few solutions. I have talked with TM at the County, too. I truly believe what RK has planned will actually help rectify the issue. There is currently a culvert that runs under the road that was extended out many years ago so it was less of a trench between the two houses but that has started to rot and form sink holes. This will allow for the opportunity to fix that and solve a problem that has been around for years. Plus, it will help increase property values.

Chair Streiff closed the public testimony portion of the item to the public.

Discussion:

CP - Last night we had our Township board meeting and we discussed this item. This is not a Township road, it is a private road but we are familiar with it and the issues with it. They have a good plan. The whole neighborhood has been working aggressively to stop the erosion. They are all on a community septic out there, so drain fields are not an issue. If they engineer the culvert correctly, it will help with the erosion issue and the Township has no issue with it. I will motion to approve this item.

JM - I will second the motion. I think this is the reason why variances exist. It is a difficult sight and the applicant has a difficult problem that he is trying to work with the neighbors to solve. I fully support this.

PB - I know erosion control will be managed during the construction project and it will benefit both of the neighbors. Plus, they are not going over the impervious surface limit.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Peters with the conditions as stated above and with the following additions by staff:

JH: No further comments from Staff.

Motion made, seconded, and approved unanimously.

2. Variance/Drentlaw - Section 6, Wells Township

Dale Drentlaw has applied for a variance to add an accessory structure beyond the number of accessory structures allowed per parcel, a 2,000-sqft variance from the 1,200-sqft shoreland accessory structure size limitation, a 2,100-sqft variance from the 2,000-sqft home occupation building size use limitation, and a 10-ft variance from the 14-ft accessory structure height limitation to allow for a new 40-ft by 80-ft pole shed with a 24-ft peak height and to allow for business use buildings totaling 4,100-sqft. The property is described as: Lot 2 and Outlots A and C, Block 1, in Southern Shores, Section 6, Wells Township, Rice County, Minnesota, The property address is: 15462 Shieldsville Blvd, Faribault, MN 55021. PID#: 10.06.1.51.002. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Preston Bauer, seconded by Jill Ellingson, to approve the Variance request with the following conditions and findings for Dale Drentlaw. The property is located in Section 6 of Wells Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Drentlaw – Variance

1. The Variance is to allow for an additional 3,200-sqft accessory structure with a 24-ft peak height on the property, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. The onsite septic system shall be shown to be in compliance with County/State standards by the

earlier of the, issuance of a building permit or before September 1, 2021. If the onsite system is found to not be in compliance a compliant system shall be installed by not later than March 1, 2022.

4. The proposed building shall be used for personal onsite accessory use and, if approved, a Conditional Home Occupation business.
5. Variance shall be void if a building permit for the proposed pole shed is not obtained within one year of the variance approval.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Planning Technician Julia Hogan (JH) presented the request to the Board of Adjustment (BOA).

JM - There was discussion about the septic system. Will the pole building be connected to the septic system?

JH - No, it will not be,

The BOA asked the applicant, Dale Drentlaw (DD), to come forward to add comments or answer questions regarding the request.

DD - We do have quite a bit of property being stored outside at this time. We have some trailers, a couple of pontoons, and a boat. We have a 5th wheel camper and a boat that we are paying to store off site. We understand the intent of the Recreational Development Shoreland (RDS) zoning, this pole building will be tucked away in the rear of our property, in the trees. We just want to protect our investment in all of the items that we need to store in a nice, neat, and aesthetically pleasing building instead of scattered throughout the trees in the back. The shed will be in the back of the property, tucked in the trees. Our property sits quite a bit back from Lake Mazaska, County Highway 21 divides us from Lake Mazaska. You will not be able to see the pole shed from the lake or the highway and it is being shielded by multiple trees on either property line.

MS - You are aware of the 6 conditions?

DD - Yes and we understand them. We have a mound system and know we will have to have that inspected prior to the building permit.

PB - Is there a structure in the back that will be removed?

DD - There is a temporary tarp structure back there that will be removed.

Chair Streiff opened the public testimony portion of the item to the public and no one spoke.

Chair Streiff closed the public testimony portion of the item to the public.

Discussion:

PB - The RDS has quite a few restrictions to preserve the area and the residential life around it. This property is unique as it is on the other side of the road from the lake and the building itself will be hidden and not obstructing views. I will motion to approve this item with the 6 conditions as stated.

JE - With the building replacing the temporary structure and being able to store more stuff inside will increase the aesthetic appeal of the property. I will second the motion.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*

- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Bauer with the conditions as stated above and with the following additions by staff:

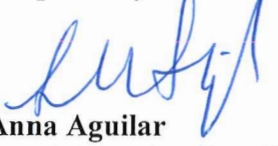
JH: No further comment from Staff.

Motion made, seconded, and approved unanimously.

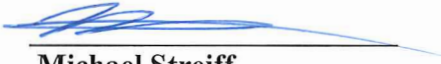
III. Adjournment

Hearing no other items before the BOA, a motion was made by McCarthy, second by Peters, to adjourn the meeting at 6:34 pm. Motion carried 5-0.

Respectfully Submitted


Anna Aguilar
Administrative Coordinator

Board of Adjustment Chair


Michael Streiff