

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT**
*Commissioner's Room / Government Services Building
Thursday, June 3, 2021 at 6:30 PM*

I. Call to Order

A. Roll Call

The meeting was called to order electronically by Chair Michael Streiff at 6:30 p.m.

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

Staff present were: Zoning Administrator Trent McCorkell, Planning Technician Julia Hogan, Clerk Pam Carty.

Others present: see Registrant List.

Preston Bauer joined meeting at approximately 6:43 pm.

B. Motion by Jill Ellingson, seconded by Charlie Peters, Reading of the Notice.

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

D. Motion by Jill Ellingson, seconded by John McCarthy, to approve the minutes of May 6, 2021.

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

II. New Business

1. Variance/Flom - Section 17, Walcott Township

Kirk and Cami Flom have applied for a 20-ft variance from the 100-ft Road Right of Way setback limitation for a new home to be constructed 80-ft away from the Glynview Trail Road Right of Way. The property is described as: Part of the NE1/4 of the NE1/4 of Section 17, Walcott Township, Rice County, Minnesota. The property address is: 23220 Glynview Trail, Faribault, MN 55021. PID#: 15.17.1.00.002. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by John McCarthy, to deny the Variance request for Kirk and Cami Flom with the following findings. The property is located in Section 17 of Walcott Township.

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

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

The BOA asked the applicant, Kirk Flom (KF), to come forward to add comments or answer questions

regarding the request.

KF - TM covered what we want to do.

MS - With the home moved to the side there - what are your plans with that?

KF - Otting House Movers owns the house and yes plans to move it off the site hopefully shortly.

MS - By shortly what are you thinking - 30 days or 60 days?

KF - Not sure, I would have to call them and they could probably have it out in a couple of weeks if an issue.

MS - The footprint of the new home is wider and longer than the existing?

KF - Yes that is correct.

JE - Had there been a variance for the existing home or did it meet the 100-ft setback?

KF - That was right on the 100-ft setback, that is one of the issues it would be easier to go forward with the existing garage so close and we would like virgin ground for the footings.

JE - Is this a property you bought with the existing garage?

KF - Yes.

JM - So there is really no reason that you could not meet the 100-ft setback, just your desire to build the house 20-ft closer to the road?

KF - It would get too close to existing building and the issue of wanting virgin ground for footings.

JM - So neither of those reasons are caused by the property itself?

KF - Just with the existing building there.

JM - That is not caused by the property.

KF - Alright.

MS - If you were to move the house back do you know how close in sq ft it would be to the existing garage?

KF - I believe we are looking at about 8-ft.

MS - The distance between the two corners?

KF - Yes, I didn't plan on the variance, it just kind of made sense once the old house was gone.

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.

Preston Bauer joins meeting at this time.

Discussion:

CP - With all the questions brought up I think John's question of #4 about the reason is not a circumstance of the property but of the landowner and #6 to make the minimum request and notes from Dennis Luebke from the Highway Dept. requested the denial, that brings all that up in the discussion.

JE - What would be his true minimum variance request? Is the 20-ft generous, or the minimum request necessary?

CP - With the County Engineer's input and looking at the layout of property - if all that is in the way of moving it back to the setback is the garage I make a motion to deny as # 4 & # 6 being the no's.

JM - I second motion to deny.

The Board of Adjustment reviewed the variance application and found that the applicant has established that not all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- 1. Proposed use is allowed in the property's zoning district; Yes*
- 2. Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; Yes*
- 3. Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; Yes*
- 4. The request stems from circumstances unique to the property, not one created by the landowner; No, as the applicant could adhere to the proper setbacks by removing or relocating garage.*
- 5. If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties; Yes*
- 6. This is the minimum variance necessary to afford relief; No, the new home may be placed closer to the garage.*
- 7. Adequate sewage treatment and water capabilities can be provided; Yes*

8. *The variance would have no significant impact on public health or safety; Yes and*
9. *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district; Yes*

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

TM: I have 3 points from the discussion:

1. Site does allow for a home on the site as it exists.
2. The concerns from the Highway Department.
3. The proposed house can be moved back 20-ft and be 10-ft from garage or garage could be removed to allow for that space.

Motion made to deny, seconded, and passed unanimously.

2. **Variance/Trnka (Bendickson) - Section 16, Forest Township**

Tom Trnka, on behalf of landowner Edward Bendickson Trust, has applied for a variance to add an accessory structure beyond the number of accessory structures allowed per property and a 42-ft variance from the 100-ft Lake setback limitation to allow for a replacement accessory structure that will be 58-ft from Circle Lake. The property is described as: Part of Government Lot 2, Section 16, Forest Township, Rice County, Minnesota. The property address is: 4333 120th Street West, Lonsdale, MN 55046. PID#: 06.16.4.50.001. 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 Tom Trnka (Bendickson). The property is located in Section 16 of Forest Township.

RESULT: Approved, AYES: Preston Bauer, Jill Ellingson, John McCarthy, Mike Streiff, ABSTAIN: Charlie Peters

CONDITIONS OF APPROVAL – Trnka (Bendickson) – Variance

1. The variance is to allow for a replacement 16-ft by 20-ft accessory shed with a 13-ft peak height to be located 58-ft from Circle Lake, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Onsite trees and existing lakeshore vegetation shall be preserved.
4. Variance shall be void if a building permit for the proposed structure is not obtained within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

The BOA asked the applicant, Tom Trnka (TT), to come forward to add comments or answer questions regarding the request.

TT - We would like to rebuild structure in the existing spot mainly because of the cement slab. It is sitting on the existing floating slab which is in excellent condition. We did have Tim Peterson come out and he gave elevations of the floor of the existing building at 1012.6-ft and the highest recorded water level of Circle Lake is 1008.59-ft - so I beg to differ on being in the flood zone, the reason to keep intact is the cost of either of the removal or of a new slab and to the location to the open area to our dock, All the natural buffers stay in place except the 50-ft I was able to open up to the dock area. we had talked to the DNR and we cleaned up in that area it is re-seeded as that was their junk pile and burning area, the

buffer next to the structure will not be touched and actually will expand in farther towards the building.

MS - Are you aware of the conditions ?

TT - Yes, we have 500-ft of lake shore we were allowed to clear 50-ft and leave rest, we will permit the structure as the buildings are in disrepair due to neglect.

MS - Exact replacement of existing structure?

TT - Using existing slab/cement and it has been inspected to be in excellent condition and is approved to be built on.

TM - The required flood elevation is 1011.1 if the survey indicated 1012 so it should be sufficient and regarding the DNR approval of removal along the lake shore? They do not approve anything above the ordinary high water line.

TT- I had talked to Todd Piepho as I was looking for relief for the clean-up and was approved to clean up burning brush area and junk left there. I had talked to DNR due to contaminants to see if there was funding for that.

TM - Any permitting in the lakeshore would be through the County, the DNR permitting would be anything in the water.

MS - You would want to work with the County to get any required permits.

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 - Basically a replacement structure, I would like to make a motion for approval with 5 conditions stated.

JE - I agree, good effort taken to maintain and use existing slab and keep buffers in place.

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:

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

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

TM - They are utilizing the existing structure and the parcel size is 4 times the minimum size for that district.

CP - I would abstain to voting as applicants are relatives.

Motion made, seconded, and approved unanimously.

3. Variance/Bartusek - Section 3, Wheatland Township

Sandra Bartusek has applied for a 68-ft variance from the 100-ft Road Right of Way setback limitation to allow for a 22-ft by 22-ft home addition to be added on to an existing home located 32-ft from the Jackson Ave Road Right of Way. The property is described as: Part of the SW1/4 of the NW1/4 of Section 3, Wheatland Township, Rice County, Minnesota. The property address is: 3420 Jackson Ave,

Webster, MN 55088. PID#: 01.03.2.50.002. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Sandra Bartusek. The property is located in Section 3 of Wheatland Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Mike Streiff NAYS: John McCarthy

CONDITIONS OF APPROVAL – Bartusek – Variance

1. The variance is to allow for a 22-ft by 22-ft home addition on the south side of the existing home with a Road Right of Way setback of 32-ft, subject to compliance with all other Ordinance regulations.
2. A septic system compliance inspection shall be completed and submitted to Rice County prior to any construction. If the onsite septic system is found to be non-compliant a compliance system shall be in place by not later than June 1, 2022.
3. Approved site plan shall be followed.
4. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

CP - Just to clarify there is an existing addition or building there?

TM- This is a deck or pergola like structure over the deck or patio area

The BOA asked the applicant, Sandra Bartusek (SB), to come forward to add comments or answer questions regarding the request.

SB - The addition is an old deck falling apart.

MS - Anything additional are you aware of the conditions?

SB - Yes, nothing to add.

MS- Is the square footage of addition - is it exact replacement or bigger?

SB – Exact.

MS - The 5 conditions you should be aware of, any questions? - they are listed on the screen.

SB - Yes I can see them - on the septic condition so if no running water in addition do we still need that?

MS - Per the conditions you need an operable septic system.

SB – yes, so a septic compliance inspection is needed then?

PB - ROW setback 25-ft or 32-ft ?

TM - Appeared to be the correct number of 32-ft from the ROW is what I found while doing the site visit.

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:

JM- Clarify the actual setback is measured from the center line of the road and the distance would be how far from center line?

TM - Don't have that ROW distance in front of me, I did measure and it is 32-ft to ROW - I believe the road is 50-ft ROW in that area.

JM - So the setback is from the center line or the ROW?

TM - No the ROW - so the proposed structure would be 32-ft from the ROW.
 JM - And the current structure?
 TM - Approximately that same distance where the deck/pergola is.
 JM - So the current house with the deck is say "Grandfathered" in so this is not for a replacement of a deck this is for a new building?
 TM - Correct this is for a home addition in the same location as existing deck.
 JM - So it is not for a replacement?
 TM - Yes, the deck is considered part of the home for setback purposes, a change in the structure but not getting physically closer.
 JM - But it is an improvement to the structure?
 TM - yes, it is.
 PB - Was there a variance necessary previously?
 TM - Not sure as I don't have the age of the home in front of me.
 CP - Being this is an existing structure with an addition on an existing structure, and no comments from the county, I make a motion for approval.
 PB - I second the motion with the 5 conditions stated.

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:

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

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

TM -This is an addition to an existing structure, in the same location as the existing deck/pergola. I was able to look up the home info and it pre-dates our zoning by approximately 45 years.

Motion made, seconded, and approved.

III. Adjournment

Hearing no other items before the BOA, a motion was made by Preston Bauer, second by Charlie Peters, to adjourn the meeting at 7:20 pm. Motion carried 5-0.

Respectfully Submitted



Pamela Carty
Clerk

Board of Adjustment Chair



Michael Streiff