

MINUTES

Blue Earth County Board of Adjustment

Regular Meeting

Wednesday, September 1, 2021

7:30 p.m.

1. CALL TO ORDER

The in-person/virtual meeting was called to order at 7:30 p.m. by Chairman Kurt Anderson. Board of Adjustment members participating in the meeting included Kurt Anderson, Bill Anderson, Michael Riley and Taryn Surdy. Staff members John Considine, Garrett Rohlfling and George Leary also participated.

2. APPROVAL OF MINUTES

Mr. Bill Anderson made a motion to approve the minutes for the August 4th, 2021 Board of Adjustment meeting. Mr. Riley seconded the motion and the motion carried unanimously following a voice vote.

3. APPROVAL OF AGENDA

Mr. Leary indicated there was no change to the agenda.

4. NEW BUSINESS

BOA 14-21

Bruce and Katherine Maurer - Request for review and approval of a variance to reduce the required lot area for a feedlot from 10 acres down to 4.50 acres, for the purpose of adding an existing shed to the feedlot property. The property is zoned Agricultural and is located in the Northeast Quarter of the Northwest Quarter of Section 15, Beauford Township.

Mr. Rohlfling presented the staff report.

Ryan Strobel addressed the Board of Adjustment. He stated he is purchasing the feedlot facility and that approval of the variance will assist young farmers when making this type of investment.

The was no other public comment.

Chairman Anderson asked for comments from the Board of Adjustment members. All members indicated they had no issue with the request.

The Board moved on to the findings-of-fact checklist.

FINDINGS OF FACT

SUPPORTING/DENYING A VARIANCE

Name of Applicant: Bruce and Katherine Maurer

Date: 09/01/2021

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers “Yes” to each of the six questions set forth below.

- 1. Is the variance in harmony with the general purpose and intent of the official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.
One of the purposes of the Agricultural District is to allow extensive areas of the County to be preserved in agricultural use. Although the feedlot parcel will not meet the 10-acre requirement, it will increase in size from 3.98 acres to 4.5 acres while preserving agricultural ground. The request appears to be in harmony with the purpose in this zoning district, and therefore is in harmony with the general purpose and intent of the official control.

- 2. Is the variance consistent with the intent of the comprehensive plan (also referred to as the “Blue Earth County Land Use Plan”)?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.
The Blue Earth County Land Use Plan has an agricultural objective to preserve agricultural land for future agricultural use by limiting conversion to non-agricultural uses. A second agricultural objective is to support the agricultural economy in Blue Earth County, including farming operations of all scales... The variance would allow for a young farmer to purchase the hog farm with the shed while still preserving farm ground for the current owner. Therefore, the variance appears to be consistent with the intent of the comprehensive plan.

- 3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.
There is no new development proposed and the feedlot is currently grandfathered in on a 3.98-acre parcel. The addition of the existing shed to the feedlot parcel is a reasonable request that will be better utilized with the feedlot operation while preserving farm ground. Therefore, the property appears as though it will be used in a reasonable manner that would not be allowed based on a minimum lot area requirement.

- 4. Is the plight of the landowner due to circumstances unique to the property, not created by the landowner?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.
The existing feedlot was constructed prior to the feedlot regulations that required a parcel size of 10 acres or more. This proposal would allow for existing buildings to be sold and used with the feedlot operation while still preserving agricultural ground that could be taken out of production if sold with the barns. It appears this proposal is unique to the property and not created by the landowner.

- 5. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The essential character of the locality is agricultural in nature with a mixture of farm and non-farm dwellings. No new development is proposed; therefore, the variance would not alter the essential character of the locality.

6. Does the practical difficulty include more than economic considerations alone?

Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The property owner is proposing to sell the existing shed with the feedlot while maintaining ownership of the agricultural ground. In order to meet the 10-acre requirement, the owner would need to sell farm ground that may be taken out of production. Although the request does not meet the 10-acre requirement, the parcel will increase in size from what it currently is. Because of this, it appears as though the practical difficulty includes more than economic considerations alone.

There was no further discussion and no further questions.

Mr. Riley made a motion to approve the variance and to adopt the findings-of-fact as outlined by staff and with the proposed conditions.

Mr. Bill Anderson seconded the motion and the motion carried unanimously by a roll call vote.

BOA 15-21

Bryan Tryhus and Mary West - Request for review and approval for reducing the side yard setback for a primary structure from 50 feet to 12 feet and the rear yard from 50 feet to 32 feet. The property is zoned conservation and is in the Shoreland Overlay District or Rapidan Lake, a Recreational Development Lake. The property is Lot 4 of Block 1, of the Lillo - Johnson Subdivision located in the Northeast Quarter of the Northeast Quarter of Section 7, Rapidan Township.

Mr. Considine presented the staff report.

The applicant was present. He indicated that the proposed site plan is the easiest way to construct the shed without having to remove several trees. He added their intention is to keep it simple. He further added that the house driveway location could potentially change.

The was no other public comment.

Chairman Anderson asked for comments from the Board of Adjustment members. All members indicated they had no issue with the request.

The Board moved on to the findings-of-fact checklist.

FINDINGS OF FACT

SUPPORTING/DENYING A VARIANCE

Name of Applicant: Brian Tryhus and Mary West

Date: 09/01/2021

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers “Yes” to each of the six questions set forth below.

- 1. Is the variance in harmony with the general purpose and intent of the official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The purpose of the Conservation zoning district is to protect environmentally sensitive areas, preserve natural ground cover, and conserve natural resources. The relevant purpose of Chapter 24 of the Zoning Ordinance is to ensure the appropriate use of land. The applicant’s proposal appears to pursue the preservation of natural ground cover while allowing for the future appropriate use of land and associated setbacks if a residential unit were to be constructed in the future.

- 2. Is the variance consistent with the intent of the comprehensive plan (also referred to as the “Blue Earth County Land Use Plan”)?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The County Land Use Plan includes a Development Objective which states, “Allow for development that adapts to the natural environment and is constructed in a manner that does not negatively impact existing natural resources.” The proposed project limits the impact on the subject lot by adapting to the existing ground cover through orientating the proposed structure to meet future setback requirements if a residential unit was to be constructed in the future. Therefore, the variance is consistent with the intent of the comprehensive plan.

- 3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The proposed storage building is a permitted use within the Conservation District. The substandard lot size and primary structure setbacks limits the buildable area for future development. The proposed structure does not appear to adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants, and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant. Therefore, the owner has proposed to use the property in a reasonable manner.

- 4. Is the plight of the landowner due to circumstances unique to the property, not created by the landowner?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

Following the purchase of the subject property, the applicants pursued combining the subject property to their existing adjacent property. Because the properties were in different subdivisions, the properties could not be combined. The Conservation Zoning District requires one acre of buildable lot area outside of setback requirements. The entire lot size is less than one acre and platted prior to June 8, 1996, and is therefore, a substandard nonconforming lot of

record. The circumstances appear to be unique to the property and not created by the landowner.

5. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".
The surrounding uses include several single-family residential units with accompanying accessory storage structures. Therefore, the variance appears unlikely to alter the essential character of the locality.

6. Does the practical difficulty include more than economic considerations alone?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".
The applicant states the need for the variance is due to preservation of the existing ground cover and land use consideration of a future residence. The applicants are unable to combine the subject property with their existing property due to the properties being platted in separate subdivisions. Therefore, the practical difficulty includes more than economic considerations alone.

There was no further discussion and no further questions.

Ms. Surdy made a motion to approve the variance and to adopt the findings-of-fact as outlined by staff and with the proposed conditions.

Mr. Bill Anderson seconded the motion and the motion carried unanimously by a roll call vote.

BOA 16-21

Randall and Jean Mittelsteadt - Request for review and approval of a variance to allow a pole-mounted small solar energy system in the Shoreland Overlay District of an unnamed Natural Environment Lake. The property is zoned agricultural and located in the Northwest Quarter of the Southwest Quarter of Section 24, Lyra Township. The property address is 14397 563rd Ave, Good Thunder MN.

Mr. Leary presented the staff report.

The applicants were present.

The was no other public comment.

Chairman Anderson asked for comments from the Board of Adjustment members. All members indicated they had no issue with the request.

The Board moved on to the findings-of-fact checklist.

FINDINGS OF FACT

SUPPORTING/DENYING A VARIANCE

Name of Applicant: Randall and Jean Mittelsteadt

Date: 09/01/2021

Parcel #: R42.18.24.300.002

Variance Application #: BOA 16-21

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers “Yes” to each of the six questions set forth below.

1. Is the variance in harmony with the general purpose and intent of the official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

Pole-mounted and ground-mounted small solar energy systems are not allowed in the shoreland district due to their potential impact on more densely populated neighborhoods and water quality. In this situation, the proposal will not likely impact any neighboring resident and not have an adverse effect on water quality. Accessory building standards in the Agricultural District have no height requirements. Shoreland Overlay Zoning does not have a maximum allowable height in the Agricultural District. The proposed system will not exceed the height of a typical outbuilding constructed today. Therefore, the construction of a pole-mounted small solar energy system is in harmony with the intent of the official control.

2. Is the variance consistent with the intent of the comprehensive plan (also referred to as the “Blue Earth County Land Use Plan”)?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The Land Use plan promotes the benefits of renewable energy systems and the opportunity to provide residents of the county with alternative options for powering their homes and businesses. In addition, the ground surface beneath the solar system will be vegetated to prevent any sediment from leaving the site. Therefore, the variance appears to be consistent with the intent of the Land Use Plan.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The entire property is in the Shoreland Overlay District. The additional one foot above the maximum allowable height at full tilt appears to be a minimal occurrence. Small solar energy systems are becoming a popular option for providing a source of power for rural residents. Due to the limited residential density of the area, the project will have limited impact on neighboring residents. The property appears as though it will be used in a reasonable manner.

4. Is the plight of the landowner due to circumstances unique to the property, not created by the landowner?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The landowners were unaware that the marsh/wetland area to the west is classified by the DNR as a lake. Their entire building site is in the shoreland overlay district. The one foot above the maximum allowable tilt height appears to be a minimal byproduct of tracking the sun in a northern climate. Due to the limited development density and the minimal impact the proposal will have, it appears there are unique circumstances of the property that are preventing the

proposed small solar energy system.

5. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The character of the locality is agricultural in nature with a small number of non-farm dwellings and a State Wildlife Management Area across the road. The proposal should have minimal, if any, impact on the character of the neighborhood.

6. Does the practical difficulty include more than economic considerations alone?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The applicants are looking for a supplemental renewable energy source for their home. They have no other reasonable location on their property to construct a small solar system. The one foot above the maximum allowable tilt height appears to be a minimal byproduct of tracking the sun in a northern climate. Therefore, the requested variance appears to include more than economic considerations alone.

There was no further discussion and no further questions.

Ms. Surdy made a motion to approve the variance and to adopt the findings-of-fact as outlined by staff and with the proposed conditions.

Mr. Bill Anderson seconded the motion and the motion carried unanimously by a roll call vote.

BOA 17-21

Roger and Barbara Veldhuisen - Request for review and approval of an after-the-fact variance to reduce the required 65-foot setback to the center of a township road to 34 feet for the construction of a roof over an existing deck. The property is zoned Rural Townsite and is in the Urban Fringe Overlay District of the City of Mankato. The property includes part of Lots 14, 15 and 16 of Riverside Park Addition in the Southeast Quarter of the Southwest Quarter of Section 14, South Bend Township. The site address is 618 McCauley Street, Mankato MN.

Mr. Rohlfing presented the staff report.

The applicant was present. He thanked staff and the Board of Adjustment for their consideration.

There was no other public comment.

Chairman Anderson asked for comments from the Board of Adjustment members. All members indicated they had no issue with the request.

The Board moved on to the findings-of-fact checklist.

**FINDINGS OF FACT
SUPPORTING/DENYING A VARIANCE**

Name of Applicant: Roger and Barbara Veldhuisen

Date: 09/01/2021

Parcel #: R50.08.14.336.001

Variance Application #: BOA 17-21

The criteria for the granting of a variance are set forth in Chapter 24 of the Blue Earth County Ordinance, Section 24-48(j). Variances will only be issued when the Board of Adjustment answers “Yes” to each of the six questions set forth below.

1. Is the variance in harmony with the general purpose and intent of the official control?
Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

Sec. 24-1. – Purpose of chapter (b) The purpose of this chapter is to promote the health, safety and general welfare of the unincorporated areas of the county by: (1) Regulating the use of land and building(s) for trade, commerce, industry, residence and other purposes. The house is 44 feet from the center line of the road. The existing deck extends another ten feet into the required setback. Considering the speed limit of the nearby street is 25 MPH and considering the general character of the neighborhood is residential, the variance appears to be in harmony with the general purpose and intent of the official control.

2. Is the variance consistent with the intent of the comprehensive plan (also referred to as the “Blue Earth County Land Use Plan”)?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The County Land Use Plan includes a development objective that states: Consider development that can be constructed with minimal impact to existing natural and built systems (e.g. wetlands and transportation). Adding a roof over the existing deck does not appear likely to impact traffic on the nearby road and should not create a safety issue with the posted 25 MPH speed limit. Therefore, the variance appears to be consistent with the intent of the comprehensive plan.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The house was constructed in the early 1900’s prior to the current setback regulations. The applicants checked with staff prior to constructing the underlying deck/landing and was advised that a permit was not required if less than one foot off the ground. However, adding a roof will require a permit. The need for a roof over the deck/landing to provide cover during an occasional rain event is a reasonable use of the property when considering the required setback. Therefore, the owner is proposing to use the property in a reasonable manner not permitted by an official control.

4. Is the plight of the landowner due to circumstances unique to the property, not created by the landowner?

Yes (X) No ()

Why or why not? All indicated “YES, for reasons outlined by staff”.

The house was constructed in the early 1900's prior to the current setback regulations. The applicants checked with staff prior to constructing the underlying deck/landing and was advised that a permit was not required if less than one foot off the ground. However, adding a roof will require a permit. The applicant's need for a roof over a deck/landing is in this specific location, not another area of the house. In addition, the applicant was not responsible for the location of the house constructed in the early 1900's. Therefore, the plight of the landowner is due to circumstances unique to the property and not created by the landowner.

5. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The surrounding area is primarily residential. Therefore, the variance appears unlikely to alter the essential character of the locality.

6. Does the practical difficulty include more than economic considerations alone?
Yes (X) No ()

Why or why not? All indicated "YES, for reasons outlined by staff".

The economic consideration of the project appears to be minimal. The applicants have stated the purpose of the roof is to allow additional days throughout the year to enjoy sitting on their deck/landing. Therefore, the variance appears to include more than economic considerations alone.

The Board of Adjustment followed with a review of the After-The-Fact Checklist.

1. Did the applicant act in good faith? Was there any attempt to comply with the ordinance?
Yes (X) No ()

Why or why not?

The applicant stopped construction once notified of the situation by County staff. The applicant has contacted staff about permits for other projects including a pending proposal to replace the garage.

2. Did the applicant make a substantial investment of money into the project?
Yes (X) No ()

Why or why not?

The applicants indicated they have approximately \$350 invested to date and to finish the project will cost approximately \$200 more.

3. Did the applicant fully complete the project?
Yes () No (X)

Why or why not?

No. Following notice from County staff, the project stopped.

4. Are there similar structures in the area?
Yes () No (X)

Why or why not?

There are no neighboring properties with covered decks extending into the required setback to the

centerline of the road.

5. Would the benefit to the County be outweighed by the burden on the applicant, if the applicant is required to comply with the ordinance?

Yes () No (X)

Why or why not?

Allowing structures to remain where constructed without a permit and without meeting the required setbacks will continue the problems associated with after-the-fact variance requests.

There was no further discussion and no further questions.

Ms. Surdy made a motion to approve the variance and to adopt the findings-of-fact as outlined by staff and with the proposed conditions.

Mr. Riley seconded the motion and the motion carried unanimously by a roll call vote.

5. ADJOURNMENT

Mr. Bill Anderson made a motion to adjourn the meeting. Ms. Surdy seconded the motion and the motion passed with all voting in favor by a voice vote. The meeting was adjourned at 8:49 p.m.

Board of Adjustment Chair Date

Board of Adjustment Secretary Date