

**MINUTES**  
**CLAY COUNTY BOARD OF ADJUSTMENT**  
**6:30 PM, TUESDAY, MAY 17, 2016**  
**MEETING ROOM B, CLAY COUNTY COURTHOUSE**

**Members Present:** Pamela Harper, Paul Krabbenhoft, Amos Baer, Perry Bushaw, Greg Anderson

**Members Absent:** none

**Others Present:** Tim Magnusson, Colleen Eck, Jenny Samarzja, Nathan Sorum, Tim Regnier, Maria Regnier

**On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board approved the agenda as written.**

**On motion by Pamela Harper, seconded by Paul Krabbenhoft, and unanimously carried, the Board approved the minutes from March 22, 2016 as written.**

**NATHAN SORUM - REQUEST FOR VARIANCE**

The applicants are seeking approval of a variance to allow a septic tank to be located closer to a structure than the current code allows. The Clay County Development Code currently requires a septic tank to be set back a minimum of 10 feet from a structure. The affected property is a 5.47 acre parcel located in the SW Quarter NW Quarter, Section 20, T140N, R44W (Highland Grove Township), in the Agricultural General Zoning District.

**On motion by Greg Anderson, seconded by Perry Bushaw, and unanimously carried, the Board opened the public hearing.**

Tim Magnusson, Planning Director, provided an aerial view and sketch plans of the property. He noted that a new septic system was installed on this property in 2004, and a building permit was issued for construction of a new garage in 2006. The location depicted on the permit application showed the septic to be located off the NW corner of the house, extending to the north. A permit for the garage was issued and the garage was built. The applicant has put the property up for sale and requested a septic certification from Clay County Environmental Services. That certification revealed that the septic location on the garage permit application was off a bit and that the septic tank and drainfield were located only 7 and 8 feet, respectively, from the new garage. The Clay County Sewage Treatment Ordinance requires a minimum setback from a septic tank to a structure of 10 feet, and from a drainfield to a structure of 20 feet. The 20-foot setback also applies to waterlines to ensure there is no infiltration into the water supply line. For these reasons the system did not pass its compliance inspection.

The applicant is requesting a variance to allow the system to remain in its current location until such time that it needs to be replaced or repaired. The current system is functional. The primary reasons for the septic system to structure/waterline setbacks is to ensure there is sufficient room to work on the tank/drainfield, if need be, and also to ensure that there is no seepage of septic

into the structure/waterline from the tank or drainfield. Since the addition is constructed on a slab there is little possibility that a leaking system could seep into the building, but it could infiltrate a buried water line. By granting this variance request the County will ensure that the system is brought into compliance when the tank is replaced or there is other repair work conducted on the septic system. The staff recommendation is to allow the septic system to remain in its current location until such time that the system requires repair or replacement. In addition, any water lines into the garage must be permanently disconnected until such time that the septic system is moved to meet the sewer to waterline setback. If needed, an installer is able to get at the septic tank in its current location. Paul Krabbenhoft confirmed that the holding tank is still sealed. He added that the septic system setbacks are State laws.

The applicant, Nathan Sorum, stated that he does not have any water lines in the garage and he also ran a 20-foot tube, past the drainfield, for any garage runoff.

Magnusson noted that no calls or letters came into the Planning Office regarding this proposal. If the variance is approved, it would be recorded on this parcel and any future buyers would have access to the information.

**On motion by Paul Krabbenhoft, seconded by Greg Anderson, and unanimously carried, the Board closed the public hearing.**

**On motion by Paul Krabbenhoft, seconded by Greg Anderson, and unanimously carried, the Board approved the request for a variance in the reduction of the required setback for a septic tank to a structure from 10 feet to 7 feet; and setback for drainfield from 20 feet to 8 feet. Said reductions would allow a septic system to remain in place until such time that there is a need to replace or to repair the septic system. The variance was approved with the following criteria/condition:**

- 1) The proposed variance is in harmony with the general purpose of the zoning district and intent of the Development Code.**
- 2) The proposed variance constitutes approximately a 60% reduction in the required setbacks.**
- 3) The circumstances related to this request may constitute a “practical difficulty” related to the applicant’s error on building permit application.**
- 4) The variance would not alter the essential character of the locality.**
- 5) At which time the septic system needs to be repaired or replaced, it must be brought into compliance to meet code requirements.**

### **TIMOTHY AND MARIA REGNIER - REQUEST FOR VARIANCE**

The applicants are seeking approval of a variance to allow a structure to be located closer to the centerline of an adjacent roadway than code requires. The Clay County Development Code currently requires a structure be set back a minimum of 125 feet from the centerline of a roadway. The affected property is a 6.16 acre parcel located in the S Half, SW Quarter, Section 8, T139N, R45W (Hawley Township), in the Agricultural General and Resource Protection-Aggregate Zoning Districts.

**On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board opened the public hearing.**

Tim Magnusson, Planning Director, provided aerial views of the property. He noted that the well on this property is approximately 148 ft. from the centerline of the road. The request is to reduce the building setback for a garage to the center of the road to somewhere between 70 to 90 feet. It appears that if the south wall of the building was set back 8 feet from the well. The requirement is to be setback a minimum of 3 feet from the furthest overhang of a structure. A 95-foot setback would be approximately 75% of the required setback. Seventy feet back would make it the closest structure to this township road in the entire area. The setbacks have been in place for a long time.

Pamela Harper asked about building the garage on the east side of the house instead, and Magnusson noted that it would encroach on the drainfield on the east side of the house. The side yard setback can be met with a minimum of five feet. Perry Bushaw asked if there were other variances issued in this neighborhood and Magnusson did not know of any without checking further.

The applicants, Timothy and Maria Regnier, stated that they intend to build a 30' x 48' garage for storage and a wood shop. It would be a Foltz building and would not use it for any animals. They already graded for a pad at the intended site for the garage. The owners thought that Foltz builders had already gotten the building permit. One corner of the graded area is at 70 feet and the other corner is at 74-75 feet. They checked with Hawley Township and were approved at the location that they graded. Township Supervisor Everett Nelson was concerned about the road grader throwing rocks if too close to the road. Mr. Regnier noted that if they push it back five more feet there is less room to get at the well if they need to work on it. They had two neighbors across road and the two neighbors on their side of the road sign an agreement that they were okay with the variance. There is also a main power line to work around, and the drainfield is located on the east side of the house where the setback could be met. This is also the flattest spot on their site. The land gradually slopes to the south and west and would take more fill material for construction. When asked by board members, Regnier stated that it would be a better fit at 70 feet, but would be doable with fill if they are requested to move it back to 95 feet.

**On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board closed the public hearing.**

Krabbenhof noted that at 70 feet, the structure would be a lot closer than any other structures out there, but at 90 feet it would crowd the well. Anderson added that the closer it is to the road, the more impact it has to the neighborhood. Samarzja stated that the board has to look at the unique character of each property and their decision should constitute the least practical difficulty.

**On motion by Perry Bushaw, seconded by Paul Krabbenhof, and unanimously carried, the Planning Commission approved the request from Timothy and Maria Regnier to allow a structure to be located closer than the 125-foot minimum to the centerline of an adjacent roadway on a parcel located in the S½ SW¼ Section 8, Hawley Township with the following criteria/condition:**

- 1) **The proposed variance is in harmony with the general purpose of the zoning district and intent of the Development Code;**
- 2) **The proposed variance constitutes a 25% reduction in the required setback;**
- 3) **The circumstances related to this request constitute a “practical difficulty” related to the location of other facilities on the lot (well, septic);**
- 4) **The variance would not alter the essential character of the locality;**
- 5) **The applicant will be allowed to construct an accessory structure (on the west side of the existing driveway) as close as 85 feet from the centerline of the adjacent roadway.**

Magnusson confirmed that starting next month, the Board of Adjustment meetings will be scheduled at 5:30 p.m.

**On motion by Perry Bushaw, and seconded by Paul Krabbenhoft, the meeting was adjourned at 5:45 p.m.**