

**MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, APRIL 19, 2022
3RD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Dennis Loock, Tim Brendemuhl, Leo Splonskowski

Members Absent: None

Others Present: Matt Jacobson, Erika Franck, Rita Rueckert, Kurt Kennedy, Brian Melton
The meeting was called to order at 5:30 PM by Chair Ezra Baer.

APPROVAL OF AGENDA:

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the Board approved the meeting Agenda.

APPROVAL OF MINUTES OF MARCH 15, 2022:

On motion by Dennis Loock, seconded by Tim Brendemuhl, and unanimously carried, the Board approved the Minutes from March 15, 2022.

PUBLIC HEARING(S):

KURT KENNEDY – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance from the Clay County Development Code to the road centerline setback for a structure on Lot 1 and Lot 2 Block 2 in Eglon Hills Subdivision, Section 9, Township 139N, Range 044W, parcel 04.055.0100, Eglon Township.

On motion by Dennis Loock, seconded by Tim Brendemuhl, and unanimously carried, the public hearing was opened.

Matt Jacobson, Planning & Zoning Director, stated there was a Variance request was previously requested and granted in 2020, but the Applicant found that the previously requested setback would not work as he anticipated. The request would be for a 53-foot road centerline setback instead of the 90-foot setback as stated in the Ordinance. Applicant wishes to construct a 40x50 detached garage. The Applicant states that the practical difficulty is due to the steep slope of the property and they require an additional 7 feet within the road centerline setback to keep the building squared with the house and to be built on stable ground. Applicant currently has a Variance for a 60-foot setback and is asking for an additional 7 feet. This property is 6.71 acres located in Ag General Zoning District. Property is currently residential and Applicant wishes to build a detached garage.

Policy considerations include:

Land Use Goal #1: Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

The 9-15-2020 Variance included the following conditions and findings:

1. The plight of the landowner is due to the circumstances unique to the property and not created by the landowner (lot topography and narrow frontage);
2. The building shall be **no closer than 60** feet to the centerline of the road right of way;
3. Structure shall be no larger than 40'x50';
4. Must be combined with Lot 002 Block 002 of Eglon Hills Subdivision (Parcel 04.055.0100).

It is noted that the landowner has met condition #4.

Aerial contour map of the property was reviewed showing the steep contours of the property.

Practical Difficulties include the following:

1. That the property owner proposes to use the property in a reasonable manner not permitted by an official control; **The intent is to continue to use the property for residential purposes. A road setback decrease from 60 feet to 53 feet is a reasonable request.**
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner; **The property owner claims that the steep north facing slope of the property prevents building even at the 60-foot setback granted in September 2020 by Variance document 806722.**
3. And the Variance, if granted, will not alter the essential character of the locality; **Other structures in the area are within the 90-foot road centerline setback. Granting this variance would keep the building line of the garage the same as the residence.**

Staff proposes the following Conditions, similar to the 2020 Variance:

1. The plight of the landowner is due to circumstances unique to the property and not created by the landowner (lot topography);
2. The building shall be **no closer than 53** feet to the centerline of the road right of way;
3. Structure shall be no larger than 40'x50'

The Highway Department maintains the road within this platted subdivision and they are in agreement with this requested setback. One of the neighbors contacted the Planning office during the previous hearing, asking about the property line setback.

Applicant Kurt Kennedy indicated that he tried to lay out the detached garage to make it parallel to the residential structure. However, he was unable to do that within the allowed setback. He then tried to turn the building and it did not look right on the lot. Chair Baer asked Mr. Kennedy about the snow accumulation against the front of his house this past winter. Mr. Kennedy stated the snow basically blew across his driveway and he blew the snow into his front yard to create a swale to go to the southwest.

On motion by Tim Brendemuhl, seconded by Dennis Loock, and unanimously carried, the public hearing was closed.

The Findings of Fact and Order were addressed by the Board of Adjustment as they pertain to the requested permit. Any items of concern may be addressed through Conditions.

On motion by Dennis Loock, seconded by Leo Splonskowski, and unanimously carried, the Board of Adjustment *GRANTED* the Variance with the following conditions:

- 1 The plight of the landowner is due to circumstances unique to the property and not created by the landowner (lot topography);
- 2 The building shall be no closer than 53 feet to the centerline of the road right of way;
- 3 Structure shall be no larger than 40'x50'

UNFINISHED BUSINESS:

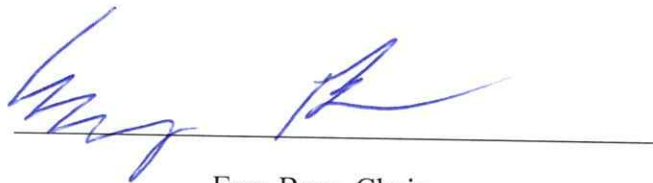
- Matt Jacobson: Clay County Comprehensive Plan update: The draft copies of the Plan has been delivered to each of the Board of Commissioners, the County Administrator and the County Attorney. It is hoped that there will be a public hearing with the Board of Commissioners in early May. The draft copy of the plan is available online for review at: fmmetrocog.org > Projects & RFPs > Clay County Comprehensive & Transportation Plan > Comprehensive Plan Draft Plan.

NEW BUSINESS:

- Seeking interested Applicant for immediate Board of Adjustment vacancy – The Board of Adjustment is still searching for interested applicants for a current opening. Director Jacobson welcomed the newest Board of Adjustment member, Leo Splonskowski.
- Land Use Webinar – Variances: Director Jacobson indicated that there are a lot of new members on the Board of Adjustment. The MCIT (Minnesota Counties Intergovernmental Trust) has a Land Use webinar for Variances. Director Jacobson shared the webinar with the Board of Adjustment at the meeting. There was discussion about the webinar and the information presented after viewing.

ADJOURNMENT:

On motion by Tim Brendemuhl, seconded by Leo Splonskowski, and unanimously carried, the meeting was adjourned at 6:27 PM.



Ezra Baer, Chair
Clay County Board of Adjustment