

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, APRIL 21, 2020
MTG ROOM B, CLAY COUNTY COURTHOUSE

Members Present: Paul Krabbenhoft, Ezra Baer, Greg Anderson, William Davis, Perry Bushaw

Members Absent: None

Others Present: Jan Ferguson, Tony Weigel, Carol Krabbenhoft, Kyle Vareberg, Rodger Hemphill, Todd Nelson, Emma Notermann, Rita Rueckert, Jenny Mongeau, Mark Stotesbery, Frank Gross, 701-371-0850 (Todd Nelson?), Steve Ferguson

The meeting was called to order at 5:35 PM by Chair William Davis. Roll call was taken for this meeting that was held virtually. Director Matt Jacobson went over the rules for participating in a virtual platform meeting.

On motion by Greg Anderson, seconded by Paul Krabbenhoft, and carried, the Board approved the meeting Agenda with the correction of the Clay County Variance hearing being removed as Applicant has withdrawn their request at this time.

On motion by Paul Krabbenhoft, seconded by Perry Bushaw, and unanimously carried, the Board approved the Minutes from January 28, 2020.

PUBLIC HEARING(S):

JAN FERGUSON – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the impervious surface maximum and property line setbacks for shoreland districts in the Clay County Land Development Code to allow greater than 25% impervious surface coverage on a riparian lot and to place a residence closer than the 10 foot side-yard setback, on Lot 9 in Hidden Valley Shores 1st Addition, Section 12, Township 138N, Range 44W, parcel 24.049.0109, Parke Township.

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

Matt Jacobson, Planning & Zoning Director, states applicant is requesting a Variance for the impervious surface of not greater than 25%. The property is on the west side of Turtle Lake and is .22 acres, a little less than a quarter-acre size lot. It is zoned Resource Protection – Aggregate and Special Protection Shoreland. There is currently a cabin onsite, which the Applicant is seeking to rebuild. The Applicant wishes to build a new cabin. The current cabin is estimated to be approximately 1640 sq. feet. The tax information shows 1184 square feet. Combining the garage and driveway impervious surfaces, the current impervious surface coverage on the lot is approximately 32% of the lot area. The proposed new cabin will be 1040 sq. ft, reducing the impervious surface coverage to 26.87 of the lot area. The Applicant is proposing to install a French drain system to mitigate runoff.

The existing cabin is about 6 feet from the property line on the west property line. There is a 10

foot side-lot setback. The existing building is about 51 feet from the water edge; the west side measures back 55 feet. The current water level is about a foot higher than normal. The plan is to reduce the impervious surface coverage from 32% to about 27% of the property area. The property line that they are requesting a reduction in setback is for the west property line.

Perry Bushaw asked if there had been any comments from the neighbors. Matt Jacobson advised he has heard from a few of the neighbors. There is currently not a deck on the lakeside of the house. The contractor is holding to their 1600 sq. foot amount, even though Board of Adjustment and Assessor's office have it measured at 1100 sq. ft.

Greg Anderson asked if they need a variance if they would rebuild in the same footprint. A variance would be required due to the sideline setback. Paul Krabbenhoft confirmed that the side setback is the same as before and remains at 6 feet.

Jan Ferguson felt Matt Jacobson explained the situation well. The current building is compromised and was old when her father purchased it 40 years ago. They are looking to build it as useable as they can on the property in question.

Greg Anderson asked Applicant Ferguson if the front edge of the cabin will be back as far as the current porch is. Their current plan is not to go any closer than the 50 feet. Perry Bushaw asked if steps would be required and Applicant confirmed that the end of about 3 steps would be 50 feet. He also inquired as to what kind of door or entrance there would be.

Greg Anderson went over today and measured the current cabin. The overall cabin is 40 feet deep – 38 feet with a 2-foot bump-out - plus a 12-foot covered porch. Perry Bushaw asked if the type of material used for the steps add or subtract to the impervious surface. Matt Jacobson advised that wood may not be considered as impervious.

Todd Nelson is the builder for this project, and he spoke for the Applicant as to the specifics of the build. He advised the steps would be wood and there would be grass below them. Perry Bushaw confirmed that the steps would not count as impervious and they would not be any closer than what they are now. Todd Nelson confirmed this.

Chair Bill Davis asked if there were any comments for or against this request and there was nobody that spoke at this time.

On motion by Greg Anderson, seconded by Ezra Baer, 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. All of the items can be addressed without conditions and none of them warranted further discussion.

On motion by Perry Bushaw, seconded by Paul Krabbenhoft, and unanimously carried, the Board of Adjustment *GRANTED* a Variance for side yard setback at 6 feet; and the structure not to be closer than 51 feet OHWL setback; and the total impervious surface to not exceed the current amount of 32% of the parcel.

MARK STOTESBERY – REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to the Ordinary High Water Level (OHWL) setback for shoreland districts in the Clay County Land Development Code to

allow a residence closer than 200 feet from the OHWL of the Buffalo River in Section 29, Township 140N, Range 47W, parcel 20.029.1401, Moland Township.

On motion by Ezra Baer, seconded by Greg Anderson, and unanimously carried, the Board opened the public hearing.

Matt Jacobson, Planning & Zoning Director, states the Applicant is seeking to build a slab on grade residence closer than the 200-foot setback of the Buffalo River, no closer than 160 feet. The proposed parcel is 16 acres. Applicant has stated that the setback would preserve a large grove of mature trees, allow for direct access to the well for maintenance, and space for future building. The building site would utilize the existing highest elevation on the property that would be necessary to obtain an elevation certificate for FEMA.

Matt Jacobson inspected the property in March and reviewed the property on topographical maps and he has confirmed that the site selected would allow Applicant to meet the regulatory flood protection. Application is currently working with an engineering company to ensure proper construction elevation. The base elevation is 913.3 feet and the elevation at the site is 911.8 feet. Matt Jacobson shared a map showing the elevation contours of the property and pointed out the proposed building site. The septic would be to the north and the well would be to the northeast. There is quite a steep drop down toward the river. There is currently a well and septic on the property; however, the septic will need to be replaced.

Chair Davis asked if anyone was aware if this area was under water back in 1997. There were no responses. Greg Anderson asked if Director Jacobson had information of the 2009 flood overlay for this portion of the Buffalo River. Matt Jacobson stated he looked for maps of that time for the Buffalo River but was unable to find them. Bill Davis asked what the elevation of the field across the road was and Matt Jacobson advised 912 feet. The elevation of this site is 913.3 feet.

Mark Stotesbery responded to the comments and questions. He has information regarding the 1975 highest water level recorded. There was about 18 inches of water in the existing house and that would be about 9/10ths lower than the recommended flood protection elevation for the house. He has spoke to Red River Electric Power Cooperative and they are going to remove all existing overhead lines and bury those and remove the poles. He drilled a well last fall. There is no installed septic system installed yet. He states he closed on the property in August 2019. He has contacted Clark's Excavating and Kent Severson of Clay County Environmental Health. They have met onsite and dug test holes. It was determined it must be an at-grade system. An at-grade system is also known as a mound system. Greg Anderson asked what structures are currently on the property. Stotesbery advised that he has removed a falling-down barn. There is a 1904 house that needs to be removed/demolished before he closes on the house build. Before he purchased it last year, this property had been in the same family since it was homesteaded.

Rodger Hemphill of MN DNR asked if the proposed site is the highest site on the entire lot. Applicant states that there is an area in the extreme northwest corner that is approximately 3 inches higher than the proposed SE corner site, but it is not a very large area. Hemphill felt the Applicant was using the topography of the lot to the best of its abilities.

On motion by Greg Anderson, seconded by Ezra Baer, 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. All items can be addressed with conditions. Practical difficulty would be to utilize the highest buildable elevation possible for this property based on the current topography of the parcel.

Matt Jacobson offered that there should be conditions applied in granting this Variance. Specifically, stating exact feet of setback from the water and would include any type of structure, i.e. home, steps, deck, etc. No public comments have been received. MN DNR representative Rodger Hemphill agrees that the proposed building site is the best location for this property.

On motion by Greg Anderson, seconded by Ezra Baer, and unanimously carried, the Board of Adjustment *GRANTED* the Variance for construction of a residence closer than 200 feet, but not less than 150 feet from the Ordinary High Water Level (OHWL) of Buffalo River.

UNFINISHED BUSINESS:

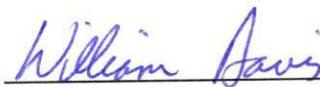
There was no unfinished business.

NEW BUSINESS:

Director Jacobson thanked everyone for their patience and cooperation in handling this virtual meeting.

Matt Jacobson also introduced new Chair Bill Davis and welcomed him to the Board of Adjustment.

On motion by Ezra Baer, and seconded by Paul Krabbenhoft, the meeting was adjourned at 6:54 PM.



William Davis, Chair
Clay County Board of Adjustment

