

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

The meeting of the Goodhue County Board of Adjustment was called to order at 5:00 PM by Chair Daniel Knott at the Goodhue County Government Center Board Room.

**Roll Call**

Commissioners Present: Daniel Knott, Randy Rechtzigel, Scott Breuer, Dennis Tebbe, Darwin Fox, and Keith Allen

Commissioners Absent: None

Staff Present: Zoning Administrator Samantha Pierret and Zoning Assistant William Lenzen

**1. Approval of Agenda**

<sup>1</sup>Motion by Commissioner Fox and seconded by Commissioner Tebbe to approve the meeting agenda.

**Motion carried 6:0**

**2. Approval of Minutes**

<sup>2</sup>Motion by Commissioner Allen and seconded by Commissioner Breuer to approve the previous month's meeting minutes.

**Motion carried 6:0**

**3. Conflict/Disclosure of Interest**

There were no reported conflicts/disclosures of interest.

**4. Public Hearings:**

**PUBLIC HEARING: Request for Variance to Minimum Setback Standards**

Request for Variance, submitted by Emery Maher (Authorized Agent) on behalf of Bradley Anderson (Owner) to A-1 Zoning District standards to allow an attached garage to be constructed less than 30 feet from a side yard property line.

*Lenzen presented the staff report and attachments.*

**Chair Knott opened the Public Hearing**

*No one spoke for or against the request.*

**<sup>3</sup>After Chair Knott asked three times for comments, it was moved by Commissioner Fox and seconded by Commissioner Tebbe to close the Public Hearing.**

**Motion carried 6:0**

*Commissioner Tebbe stated it is straightforward to place the garage in that location.*

**<sup>4</sup>Motion by Commissioner Tebbe, seconded by Commissioner Fox for the Board of Adjustment to:**

- adopt the staff report into the record;
  - adopt the findings of fact;
  - accept the application, testimony, exhibits, and other evidence presented into the record; and
- APPROVE** the Request for Variance, submitted by Emery Maher (Authorized Agent) on behalf of Bradley Anderson (Owner) to A-1 Zoning District standards to allow an attached garage to be constructed 11 feet from a side yard property line.

**Motion carried 6:0**

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

**PUBLIC HEARING: Request for Variance to Bluff Land Standards**

Request for Variance, submitted by Moggie Brady (Owner) to Article 12 (Bluff Land Standards) to allow construction of an in-ground pool less than 30 feet from the top of a bluff.

*Lenzen presented the staff report and attachments.*

**Chair Knott opened the Public Hearing.**

*No one spoke for or against the request.*

**<sup>5</sup>After Chair Knott asked three times for comments, it was moved by Commissioner Rechtzigel and seconded by Commissioner Fox to close the Public Hearing.**

**Motion carried 6:0**

*Commissioner Tebbe stated that it makes sense to put the pool where they have proposed it.*

*Commissioner Fox stated this is a unique parcel that shows that when you try to design an ordinance to fit the county you get some like this one that requires a variance, and that's what variances are for.*

**<sup>6</sup>Motion by Commissioner Fox, seconded by Commissioner Allen for the Board of Adjustment to:**

- adopt the staff report into the record;
  - adopt the findings of fact;
  - accept the application, testimony, exhibits, and other evidence presented into the record; and
- APPROVE** the Request for Variance, submitted by Moggie Brady (Owner) to Article 12 (Bluff Land Standards) to allow the construction of an in-ground pool 14 feet from the top of a bluff.

**Motion carried 6:0**

**PUBLIC HEARING: Request for Variance to Minimum Setback Standards**

Request for Variance, submitted by Timothy and Challis Voth (Owners) to A-3 Zoning District standards to allow an accessory building to be constructed less than 30 feet from a side yard property line.

*Lenzen presented the staff report and attachments.*

*Chair Knott asked about the setback location proposed by staff.*

*Lenzen stated that the shed could move 30 feet to the east and meet the setback requirements.*

*Challis Voth (Applicant) presented staff with the Township Zoning Application.*

*Timothy Voth (Applicant) mentioned that there used to be a barn in the same location as the proposed shed. The barn has been gone for about 50 years. Mr. Voth presented a photograph of the original barn to the board (Exhibit A).*

*Commissioner Allen asked when the dwelling was constructed.*

*Timothy Voth stated it was built in 1965.*

**Chair Knott opened the Public Hearing**

*No one spoke for or against the request.*

**<sup>7</sup>After Chair Knott asked three times for comments, it was moved by Commissioner Tebbe and seconded by Commissioner Breuer to close the Public Hearing.**

**Motion carried 6:0**

*Commissioner Tebbe stated that he agrees that a zero-foot setback would be okay.*

*Commissioner Fox asked staff if the property was ever sold. Would the applicant need to have it platted to be*

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

*sold together?*

*Pierret stated that at the time of sale, the owners typically would have to stipulate that both parcels would have to be sold together.*

*Commissioner Rehtzigel stated that moving the shed back would put it in cropland.*

**<sup>8</sup>Motion by Commissioner Rehtzigel, seconded by Commissioner Fox for the Board of Adjustment to:**

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and **APPROVE** the Request for Variance, submitted by Timothy and Challis Voth (Owners) to A-3 Zoning District standards to allow an accessory building to be constructed 0 feet from a side yard property line.

*Chair Knott asked staff if Featherstone Township made any comments on the Township Zoning Application.*

*Lenzen stated that Featherstone Township had made no comments.*

**Motion carried 6:0**

**PUBLIC HEARING: Request for Variance to Access Drive Standards**

Request for Variance, submitted by Kyle Ayres (Owner) to access drive standards to use a driveway to a principal structure (dwelling) that is over 14% grade.

*Pierret presented the staff report and attachments.*

*Chair Knott asked what fire district this is in.*

*Pierret was unsure however the audience commented it may be the Nerstrand fire department.*

**Chair Knott opened the Public Hearing**

*John Lindbeck (38475 53<sup>rd</sup> Ave Way Dennison MN 55018) asked how this road was constructed. How much erosion would happen within one year? When was it last maintained by the Township? How do old, non-maintained Township roads get left when they are no longer maintained? How could this road have been constructed without a permit?*

*Chair Knott stated that the Board of Adjustment can only look at information pertaining to the variance request.*

*Leah Lindbeck (38475 53<sup>rd</sup> Ave Way Dennison MN 55018) provided maps and soil data to the Commissioners (Exhibit B). She stated that her concerns are with the 14% slope that is stated to be safe. Some sections of the driveway are very steep and not safe and should be considered highly erodible based on the slope and soil type. The home site is also situated on highly erodible soil. A different site is available for a dwelling that wouldn't be as highly erodible and not on the top of a bluff. There is a risk of flooding, erosion, and groundwater impacts. The drive is in shoreland, and no permits were pulled to construct the driveway. The dwelling at the top of the bluff will change the essential character of the locality. All these standards aren't being followed.*

*Mary Murry (4050 Sogn Valley Trail, Dennison MN 55018) Stated that they should have considered a different dwelling location that wouldn't impact the bluff. The road at one time did come through her property and connect with Sogn Valley Trail. Concerned that building a dwelling on top of the bluff contributes to pollution such as light, chemical, soil erosion, etc. Was also concerned that the dwelling location would take away tillable land.*

**<sup>9</sup>After Chair Knott asked three times for additional comments, it was moved by Commissioner Fox and seconded by Commissioner Tebbe to close the Public Hearing.**

**Motion carried 6:0**

*Commissioner Tebbe asked Ben Dvorak (Goodhue County Soil and Water Conservation District) to explain more*

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

*about the erosion and driveway.*

*Ben Dvorak stated the Decorah shale layer is present in the area with 16-18% slopes. This layer tends to seep water horizontally. At this point on the driveway, the water has been seeping for some time and has created a well-developed ditch that the excavation company has left in hopes that this keeps the existing driveway from eroding and deteriorating. With best management practices (BMPs) the road shouldn't erode. The drive has been there for some time.*

*Chair Knott stated that excavation would have to happen if the variance were denied. To achieve a 14% overall slope.*

*Commissioner Breuer stated that a good point was made earlier about the fire department being able to access the driveway at those percent grades.*

*Commissioner Rehtzigel asked if there is farming continuing on the parcel and how the owners get up there.*

*Kyle Ayres (Applicant) stated that the field where the house is going is not being farmed. It is planted to grass currently. The driveway was used when the field was actively being farmed.*

*Chair Knott asked how long the applicant has owned the property.*

*Applicant stated about a year.*

*Corey Stephans from DeCook Excavating presented Commissioners with a video of the road construction. He stated he wanted to make sure the driveway looked and was installed as if it was put there by nature. He mentioned that he has served on fire departments for many years. The trees that were cut down were to allow the trucks to access the dwelling site without hitting the mirrors. Geotextile fabric was placed under the drive. The 18% slope is only at the very top of the drive. Keeping the steep slope would allow the snow to blow off the driveway. Digging the drive down to meet the 14% slope would require elongating the top of the drive thus causing the drive to enter the neighbor's property or impacting the bluff land and the snow would drift onto the driveway. The north side of the driveway already has an established swale that creates a nice ditch for water to run without eroding the driveway. Wants to put rip rap near the Decorah shale layer to reduce the erosion from water.*

*Commissioner Breuer asked based on Mr. Stephans's opinion if the fire department could get up to the dwelling site.*

*Mr. Stephans stated that 9 months out of the year they would be able to access the site but for the other 3 months even with 3 inches of snow, the applicant wouldn't even be able to make it up the drive without proper maintenance.*

*Commissioner Allen asked how many property owners there have been over the last 3 years.*

*Pierret stated that her best guess is about 3 owners since 2019.*

*Commissioner Tebbe stated that his driveway is 17-18% slope and you do have to maintain it. With the driveway facing the southwest and being surrounded by deciduous trees, in the winter it should get good exposure to the sun which should help in maintaining it. Being that this road was an existing Township road at one point and has established ditches he doesn't have a problem with it if the applicant is following the BMPs recommended by SWCD. This will mitigate possible impacts on water quality and erosion near the site.*

*Commissioner Allen stated that the slope of the driveway would be reflected in the homeowner's insurance policy. He also agreed that he doesn't have a problem with this drive being greater than 14% because at some point it was an established road.*

*Commissioner Fox stated that most of the driveway length is at or less than 14% slope. Just a small distance is greater than 14%.*

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

*Chair Knott asked the staff why the road doesn't count as a bluff.*

*Pierret stated that bluffs are anything 30% slope and more. The road was already established and it's not a bluff because it was impacted by humans some time ago. Bluff land impact refers to new disturbances to the bluff impact zone. The shoreland area is buildable and may be disturbed when following the Shoreland ordinance. She worked with the Applicant to determine whether to apply for a variance to the 14% slope or to do grading and excavation work to achieve the 14% slope which may have required a variance to impact bluffs. Warsaw Township requires 1,000 feet between dwellings. The Applicant could have applied for a variance with the Township to dwelling distances, but he opted to situate the dwelling on the top of the bluff. When the neighbors built their houses, this boxed the Applicant in leaving the only option to build on the top of the bluff in compliance with Township rules.*

*Commissioner Tebbe stated that if they had excavated the steep part to bring it into compliance, it would have required a lot of fill to be brought in and that would have caused issues at the top.*

*Commissioner Fox stated that when the neighbors built their dwellings it created a hardship for the Applicant's property causing them to look elsewhere on their parcel to build a dwelling.*

**<sup>10</sup>Motion by Commissioner Fox, seconded by Commissioner Tebbe for the Board of Adjustment to:**

- adopt the staff report into the record;
  - adopt the findings of fact;
  - accept the application, testimony, exhibits, and other evidence presented into the record; and
- APPROVE** the Request for Variance, submitted by Kyle Ayres (Owner) to access drive standards to allow the use of a driveway with a 63-foot segment no greater than 16.1% slope and a 61-foot segment no greater than 18.2% slope. Subject to the following conditions:
1. Applicant shall work with the Goodhue SWCD to install culverts, rock checks, and berms; and
  2. The Goodhue SWCD and Zoning Administrator shall verify driveway grades prior to the issuance of a Certificate of Occupancy for the new dwelling.

**Motion carried 6:0**

**Other-Discussion**

*There was no other discussion.*

**<sup>11</sup>Motion by Commissioner Fox, seconded by Commissioner Rehtzigel to adjourn the BOA meeting at 6:33 PM.**

**Motion carried 6:0**

Respectfully submitted:

William Lenzen, Zoning Assistant

**MOTIONS**

---

**<sup>1</sup> Motion to approve Agenda**

Motion carried 6:0

**<sup>2</sup> Motion to approve the previous month's meeting minutes**

Motion carried 6:0

**<sup>3</sup> Motion to close the Public Hearing**

Motion carried 6:0

**<sup>4</sup> APPROVE the Variance to Accessory Minimum Setback Standards**

Motion carried 6:0

**<sup>5</sup> Motion to close the Public Hearing**

Motion carried 6:0

**<sup>6</sup> APPROVE the Variance to Bluff Land Standards**

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
September 23<sup>rd</sup>, 2024, MEETING MINUTES**

---

Motion carried 6:

<sup>7</sup> **Motion to close the Public Hearing**

Motion carried 6:0

<sup>8</sup> **APPROVE the Variance to Minimum Setback Standards**

Motion carried 6:0

<sup>9</sup> **Motion to close the Public Hearing**

Motion carried 6:0

<sup>10</sup> **APPROVE the Variance to Access Drive Standards**

Motion carried 6:0

<sup>11</sup> **Motion to adjourn**

Motion carried 6:0