



Historic Courthouse
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Zoning Office

Minutes

MILLE LACS COUNTY BOARD OF ADJUSTMENT Mille Lacs County Courthouse February 28, 7:00 p.m.

Members Present: Amy Birnbaum, Loren Lueck, Kyle Weimann, John Roxbury Jr.

Members Absent: None

Ex-officio Members Present: Brandon Reinking, Deputy Zoning Administrator

Others Present: None.

- I. Call to Order: The meeting was called to order at 7:02 p.m. by Mr. Roxbury.
- II. Pledge of Allegiance: Mr. Roxbury led those present in the Pledge of Allegiance.
- III. Approval of the Minutes: Mr. Weimann requested an amendment to the minutes to correct a grammatical error. Motion by Mr. Roxbury, seconded by Mr. Lueck, to approve the December 27th, 2021 meeting minutes. All members voted aye. Motion carried.
- IV. Old Business:

Re-consideration of an Amended Request by Anthony D Asher (owner):

- Reduce the minimum tributary setback to the West Branch of the Rum River from one hundred (100) feet to eighty-one (81) feet. **MLCDO Table 322.A.**

to allow the construction of a new home and deck in the approximate same location of the existing home, parcel legally described as: All that part of the Southwest Quarter of the Northwest Quarter of Section 33, Township 38, Range 27, Mille Lacs County, Minnesota, described as follows: Beginning at the southwest corner of said Southwest Quarter of the Northwest Quarter; thence North along the West line thereof to the point of intersection with the North line of the South 33.00 feet (2 rods) of said Southwest Quarter of the Northwest Quarter; thence East along said North line of the South 33.00 feet a distance of 343.31 feet (20 rods plus 13 feet 3 and $\frac{3}{4}$ inches); thence North and parallel with the East line of the West Half of the West Half of said Southwest Quarter of the Northwest Quarter a distance of 818.00 feet (49 rods, 9 feet, 6 inches); thence West parallel with the South line of said Southwest Quarter of the Northwest Quarter to the point of intersection with said East line of the West Half of the West Half of the Southwest Quarter of the Northwest Quarter; thence North along said East line to the northeast corner of said West Half of the West half of the Southwest Quarter of the Northwest Quarter; thence East along the North line of said Southwest Quarter of the

Northwest Quarter to the northeast corner thereof; thence South along the East line of said Southwest Quarter of the Northwest Quarter to the southeast corner thereof; thence West along said South line of the Southwest Quarter of the Northwest Quarter to said point of beginning, according to the United States Government Survey thereof and situate in Mille Lacs County, Minnesota. **Located at 14984 135th St, Foreston, MN.** PIN 11-033-0200

Mr. & Mrs. Asher were present and redescribed their request to the board members. They elaborated on the additional tasks they completed for the board. This included hiring a team of surveyors to create an updated site plan that included grading and water flow. They also reached out to a septic professional for a letter to reassess how close the house could get to the septic system.

Mr. Weimann questioned the septic letter, which was inadvertently not included with the staff report provided to Board members. Mr. Asher described what was in the letter, saying the 100' setback could not be reached due to the location of the septic tanks and mound.

Mr. Roxbury asked if there were any further questions from the board at this time.

Mrs. Birnbaum mentions the current home location appears to be a high spot on the property and would be a good location for reconstruction.

Mr. Roxbury asks for written correspondence – there was none. Mr. Roxbury opened the floor for public comment – no one was present for comment. Mr. Roxbury closed the public hearing.

Mr. Reinking read the findings of fact:

A. The variance proposes the use of land in a reasonable manner;

The applicant is proposing a reasonable use of the property. The use would not change.

B. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner appears to be due to the desire to not meet the setback as laid out in MLCDO Table 322.A. The property has additional building locations that meet the setback criteria. Building on the South side of the power line is an option as well as burying it. Areas South of the current building location would not interfere with the septic system.

C. The variance, if granted, will not alter the essential character of the area;

Granting the variance should not alter the essential character of the area. There are many multi acre farm homesteads in the adjacent area.

D. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and

Economic considerations appear to be part of the request. The landowners desire to not grade a new building location and extend the driveway would be considered economic considerations.

- E. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

Single family dwellings and accessory structures are an allowed use in the West Branch of the Rum River – Transitional District.

Mr. Roxbury mentions that the staff recommendation to deny the request is a little aggressive and that the river bank changes yearly and sees no problem with retaining the distance at the requested 81’.

Mr. Roxbury makes a motion to approve the request at hand. 2nd by Mr. Lueck.

Mr. Roxbury asks if there is any further discussion.

Mr. Weimann states he generally agrees with Mr. Roxbury’s position on the matter but also states this is a good opportunity to put some conditions on the property to make sure it meets some of the points they have committed to and mitigate additional impacts of the shoreland area.

Proposed condition is to make sure construction is completed based on the proposed site and grading plan.

2nd proposed condition is to have two of the accessory structures that are within the shoreland setback be removed.

Mrs. Asher asks for additional information.

Mr. Weimann explains the purpose of the Wild & Scenic River District is to protect the resources that area shared by everyone. In order to compensate for the additional impact of the encroachment of the 100’ setback of the home, it should be offset by removing the existing non-conforming accessory structures inside of the setback distance.

Mrs. Asher states that the visuals would not change with the new structure. Mr. Asher explains the uses of the accessory structures, no water or septic there.

Mr. Roxbury states those buildings are not part of this variance request and they are grandfathered in the BOA does not have the jurisdiction to remove them.

Mr. Weimann disagrees with Mr. Roxbury’s statement.

The Board deliberates if they have the ability force the applicants to remove the two accessory structures.

Mr. Roxbury states as the maker of the motion he denies the conditions as proposed by Mr. Weimann. The motion is to approve the 81' setback as requested

Mr. Roxbury, Mr. Lueck & Mrs. Birnbaum vote aye – Mr. Weimann vote nay.

Motion carried.

V. New Business:

Consideration of a Request by Dan & Paula Perron (owner):

- Reduce the minimum building setback from centerline of a township road from fifty (50) feet to thirty-eight (38) feet. **MLCDO Table 501.**

to allow the construction of a new 3-bedroom home and 2-stall garage on the parcel legally described as Lot 8, Block C of Waldemere, Mille Lacs County, Minnesota.

Located at 6864 Blair Way, Wahkon, MN. PIN 08-920-0120.

Applicants Dan & Paula Perron are present and describe their request in detail. They described that due to the layout of the lot they need a 38' setback to the centerline of the road to stay out of the 75' OHWL setback.

Mr. Roxbury discusses the constructed roads as compared to where the right of way is platted.

The Board and applicants discuss the exact distance that was measured for the variance to make sure it is correct.

Mr. Roxbury asks for written correspondence – there was none. Mr. Roxbury opened the floor for public comment – no one was present for comment. Mr. Roxbury closed the public hearing.

Mr. Reinking read the findings of facts:

F. The variance proposes the use of land in a reasonable manner;

The applicant is proposing a reasonable use of the property. The use would go from recreational camping (allowed use) to single family dwelling (allowed use).

G. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;

The plight of the landowner appears to be due to the size and shape of the lot as platted in 1914. Creating difficulty to meet the setback to the lake and road centerline.

H. The variance, if granted, will not alter the essential character of the area;

Granting the variance should not alter the essential character of the area. There are many single-family dwellings of similar size along Blair Way.

- I. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems, and may include earth sheltered construction as defined by the State of Minnesota, when it is in harmony with official controls; and*

Economic considerations do not appear to be part of the request.

- J. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.*

Single family dwellings and accessory structures are an allowed use in the General Development Shoreland (S-2) zoning district.

No further discussion.

Motioned by Mrs. Birnbaum – Seconded by Mr. Lueck

All in favor.

Motion carried.

VI. Other Business:

Mr. Reinking brought up the 2022 Board of Adjustment schedule and if there were any issues. No issues were mentioned.

VII. Adjournment:

Motion by Mr. Lueck, seconded by Mrs. Birnbaum, to adjourn the meeting.

Motion carried with all members voting aye.

The meeting of the Mille Lacs County Board of Adjustment adjourned at 7:41 p.m.