

Morrison County Board of Adjustment Via Microsoft Teams

Minutes

March 2, 2021

Chairperson BethyJo Murphy called the meeting of the Morrison County Board of Adjustment to order at 7:00 p.m.

Members Present: BethyJo Murphy, Dave Stish, Russ Nygren, and Marvin Trettel.

Members Absent: None

Ex-Officio Members Present: Amy Kowalzek, Robert Wall, and Sharon Peterson

Ex-Officio Members Absent:

County Commissioners: Jeff Jelinski, Mike LeMieur, Greg Blaine and Mike Wilson

Other Members: Mark Anderson (DNR) and Shannon Wettstein (SWCD)

- 1. Robert & Carol Wenner – 30532 Birch Acres Rd; Cushing, MN 56443 – After-the-Fact application for a Variance to continue the rock landscaping, retaining wall, boulder barrier and patio within the shore impact zone; located in lot 23, block 1 of Birch Acres, Section 31, Township 132, Range 31, Scandia Valley Township.**

Robert & Carol Wenner were present Rich and Barb Wenner were also present (co-owners)

Amy Kowalzek entered into record Sections 706.1 A, 706.1 D, 710.3, 710.4, 710.42, 710.43 and 712 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, after-the-fact variance application, after-the-fact background information questions, site plan, three (3) site photos from the applicant, aerial photo, water flow site plan from the applicant, two (2) aerial photos, two (2) shoreline photos, nine (9) site photos, staff report including previous permits and site photos, shoreline photos of the work that has taken place, first notice of violation that was sent to the applicant and the impervious surface calculation sheet. There were 48 notices sent to neighboring property owners. No correspondence was received prior to the hearing. Amy entered the finding of fact and decision questions.

Robert Wenner stated that his brother Rich Wenner also owns the property. The agencies we worked with stated that we would have to take out the previous work for them to help us. We did not want to do this. We did implement some of the suggestions that were given to us by the Soil and Water Conservation District. The other things they suggested would have been damaging to the lot and only solve part of the problem. This has been an on-going problem for us for years. We did to fix the damage every year. This all stemmed from when the culvert was put in.

Russ Nygren stated that he talked with the Township and they said the culvert was already done before they took over the road. It sounds like the developer is the one that created the issue.

Rich Wenner stated that there was a road there before then it was paved, and they banked the corner and the runoff collects here and goes to the culvert.

Russ Nygren stated that this is an after-the-fact application and it is a hard place to be put in when it is known this would not have been allowed. Rober Wenner stated he is concerned about what is best for the lake. Our family looked into this before we completed the work. We think this should take care of the runoff problem. Rich Wenner stated they tried to control the runoff and erosion.

Dave Stish stated this is a very nice sized property. It is a conforming lot. A lot of the problem is in the back of the property behind the cabin. Maybe there could have been some vegetation in this area. There is no vegetation and no roots to help control things. I think there are some alternatives to divert the water. The practical difficulty is based on the Township Road and culvert.

Robert Wenner stated they did work with the County in this area and cut some trees. It is hard to grow vegetation when there is a river running through the property. We have been here for 30 years and it has only been an issue when the road was paved. BethyJo Murphy asked if the Township was ever approached regarding some fixes. Rich Wenner stated they did contact the Township and they put in a second culvert, but we still get the vast majority of the water.

Shannon Wettstein (SWCD) stated that the plan that was designed is a typical design when the water has to get to the lake. When we propose a plan, it is normally at a place furthest from the lake and place a catch basin with a berm then an underground tile line to get it to the lake. This is a drastic design with losing a lot of trees. This needs to be a long-term fix not just something for now.

BethyJo Murphy stated that this design was done in 2016. Would this plan still apply today? Is there a way to possibly save some of the trees? Would a rock spreader work near the Township Road? Shannon Wettstein stated that she thinks the engineer would still recommend this design today. Rock spreading would increase the disturbed area and still lose the trees.

Marvin Trettel asked there is a culvert behind the retaining wall. Robert Wenner stated there is no, the vent is just in case the water pools behind the wall. Robert stated that they did put in the berm that SWCD suggested behind the cabin. Following the design would be at mostly our expense.

Marvin Trettel asked if it was possible to cut along side of the trees to keep the roots and to install a larger swale close to Timber Lane. Shannon Wettstein stated they like to keep all of the projects on the owner's lot if possible. The tile line could be cut around the trees, but the roots would still get damaged and the trees would not make it over time.

Mark Anderson (DNR) stated having a down stream issue and adding hard scaping within the shore impact zone is not a fix. The water should be caught upstream and moved elsewhere. I have seen this design put in place and it does work.

BethyJo Murphy asked why the meeting with SWCD, DNR and the Land Services Department did not happen. Amy Kowalzek stated that the Land Services Department was never contacted prior to the work being completed. It was noted that the work that was already done could not be permitted and that is why the applicant chose to move forward with the variance. BethyJo stated she does not see an erosion issue in the pictures that were presented. Robert Wenner stated there has always been an issue, but we were always repairing the issues. We did not feel like the design would fix the problem. We are confident that the work we completed will fix our issues.

Amy Kowalzek asked if anyone helped to design this project. How did we get to this place now? Robert Wenner stated they worked with a landscaper to complete the project. The water would get behind the rip rap and erode it. We spread out the project to get water to the swales.

Audience Comment:

Clint Katherine asked if a tile line could be laid on the surface and covered with dirt and feathered out to help save the trees. Possibly instead of one large line it could be split into smaller lines and spread out. Shannon Wettstein stated this could be looked into with a decent sized berm. The planning for a design like this is a lengthy process. There are probably other alternatives.

Dave Stish stated that all of the runoff is still going to happen with this new landscaping. The SWCD office did have a plan that would have worked.

The voting sheets were polled.

A motion was made by Dave Stish to deny the Variance request. The motion was seconded by Marvin Trettel. The vote was all in favor.

Amy Kowalzek stated that the after-the-fact voting sheets do not need to be completed since the first set of voting sheets ended in a denial.

**2. Gretchen Sankovitz Rev. Trust (Thomas) – 24281 Pine View Rd; Pierz, MN 56466 – Application for a Variance to add onto a non-conforming structure; located in Lots 1, 2 & 3 of Sun Set Point Lots, Section 13, Township 40, Range 31, Agram Township.**

Gretchen and Thomas Sankovitz were present.

Amy Kowalzek entered into record Sections 301, 301.6 A, 706.1 and 706.3 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, variance application, background information questions, site plan, six (6) site plans of the proposed structure/addition, four (4) aerial photos, four (4) site photos, staff report, letter from the DNR and impervious surface calculation sheet. There were 100 notices sent to neighboring property owners. No correspondence was received prior to the hearing. Amy entered the finding of fact and decision questions.

BethyJo Murphy asked if the holding tanks were the appropriate size for the dwelling and the addition. Thomas Sankovitz stated there is two holding tanks and the inspection it is my understanding that they are appropriate and in compliance. Amy Kowalzek stated she would need to look at the inspection that was done.

BethyJo Murphy stated that the proposed structure height is 24.5' high and 25' is the allowance. What is being done to confirm this will meet the height limits. Thomas Sankovitz stated Loidolt Lumber created the design and used a 4/12 pitch on the roof to keep the height under the 25' allowance.

Marvin Trettel stated he was pleased to see there were gutters put in place. Looks like the drain to the sides. Should Galen Gruber the Shoreland Specialist visit the site. Thomas Sankovitz stated the current swale would be modified.

Dave Stish stated this is a small lot with 90 feet of shoreline. The Board of Adjustment should be eliminating non-conformities not intensifying them. Why would this lot be able to support a six-bedroom home and only using holding tanks? Thomas Sankovitz stated that a full septic system cannot be placed on the lot due to the neighboring wells. We are planning to use this as our retirement home with space for the whole family. We already took out some of the impervious surface to help with water running to the lake. Dave stated that the variances go with the land not the landowner. The property was bought in 2014, some people purchase property that does not meet their needs. I am not convinced this property needs a variance.

Russ Nygren asked if a variance would still be needed if the structure meets the setbacks. Amy Kowalzek stated it would not. At this time, we are unable to verify weather or not the setback is being met. The only thing we have on file is an old permit that stats the structure is 72' from the lake. The DNR does not know if the measurement was taken from the eve of the structure. We now have ice on the lake and cannot verify the OHWM.

Audience Comment:

Mark Anderson - DNR – stated he was on-site and measured from the sliding glass door to the lake. This measurement was at 75'. I am confident that I did not consider the eve of the structure when taking this measurement.

Marvin Trettel asked for a condition to be included for a stormwater plan.

The voting sheets were polled.

The voting sheets polled with one of the questions in a tie vote, Marvin Trettel stated he would like to change his vote to a yes on question number 4.

A motion was made by Russ Nygren to approve the Variance request including conditions. The motion was seconded by BethyJo Murphy. The vote was three in favor and Dave Stish opposed.

A discussion was held on the condition for a survey for the impervious surface.

Thomas Sankovitz stated that he would be willing to remove the 3<sup>rd</sup> driving area.

**3. Janet Holtz (David Virnig) – 11658 State Highway 238; Royalton, MN 56373 – Application for a Variance to construct a barn within the setback to a dwelling; located in W ½ of SE ¼, Section 2, Township 127, Range 30, Two Rivers Township.**

Janet Holtz Virnig and David Virnig were present.

Amy Kowalzek entered into record Sectionv1209.1 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, variance application, background information questions, site plan, three (3) aerial photos of the parcel, two (2) site photos, staff report and previous variance site plan. There were 30 notices sent to neighboring property owners. Multiple comments were received prior to the hearing. Amy entered the finding of fact and decision questions.

Marvin Trettel stated he was not for this variance the last time because it was too close to the neighbors dwelling on the east side, now it sounds like the people to the east did not have an issue with the request. Is it possible to change the request to the east side? Amy Kowalzek stated it is not possible to change the request at this point due to the mailing and advertising that was already completed.

Marvin Trettel stated in 2018 a manufactured home was moved in to the parcel to the west. I thought there was always a home on this site. Dave Virnig stated there was just buildings.

Russ Nygren asked if the applicants were always aware of the 1000-foot setback. Janet Holtz stated they were not aware until the application process.

BethyJo Murphy stated that this application is only for one setback instead of two. Why this location for the barn? Janet Holtz stated they wanted to ask again for a variance and Amy Kowalzek stated that the application needed to be different from the first application, that is why we moved the barn to the west. We need to have room for the semis to turn around. We could possibly move it back another 100 feet. BethyJo asked where the fans and doors will be placed on the barn. Janet stated the fans will be on the south side and the doors on the east side.

Audience Comment:

Joe Sobania – stated he has concerns with the distance this barn will be to my house. There has been a home on this site for years. The old home was taken down about five years ago then the manufactured home was moved on. If this application goes through, we will now need a variance to add onto our home. We would also like to have some animals on our property. We did not attend the other public hearing

because we thought that was a better place for the barn. Dave Virnig stated that as long as the neighbor's chickens do not come onto our property there will not be an issue for them to have chickens.

Amy Kowalzek stated that as long as any expansion to the neighboring home does not further encroach into the setback a variance would not be needed. This is only allowed in the agriculture zoning district.

A vegetative buffer was discussed.

The voting sheets were polled.

A motion was made by Marvin Trettel to deny the Variance request. The motion was seconded by David Stish. The vote was all in favor.

With no further business at hand, the hearing was closed at 10:58 p.m.

A motion was made by Dave Stish to approve the February 2, 2021 minutes with a correction on page 2. The motion was seconded by BethyJo Murphy. The vote was all in favor.

New business – Amy Kowalzek stated that this will be the last meeting for some of our Board members due to the boards combining.

Old business –

A motion was made by BethyJo Murphy to adjourn the meeting. The motion was seconded by Russ Nygren. The vote was all in favor.

With no further business at hand, the hearing was closed at 11:02 p.m.

Respectfully submitted,

Amy Kowalzek, Secretary

Morrison County Board of Adjustment

BethyJo Murphy, Chairperson  
Morrison County Board of Adjustment

Dave Stish, Vice-Chairperson  
Morrison County Board of Adjustment