

Morrison County Board of Adjustment Via Webex

Minutes

May 5, 2020

Chairperson BethyJo Murphy called the meeting of the Morrison County Board of Adjustment to order at 7:14 p.m.

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

Members Absent: None

Ex-Officio Members Present: Amy Kowalzek and Sharon Peterson

Ex-Officio Members Absent: None

The recording of this meeting was interrupted, the only portion captured was the Moore application.

- 1. Kevin & Felicia Busch – 3945 320th St; Cushing, MN 56443 – Application for a Variance to place a home within the setback to a bluff; located in pt of Gov. Lot 1, Section 28, Township 132, Range 31, Sycamore Valley Township**
- 2. Brian & Wendy Harding – 34504 Circle Dr; Hillman, MN 56338 – Application for a Variance to encroach on a wetland setback with a septic system drainfield; located on Lot 3 of Shadow Woods, Section 12, Township 42, Range 29, Pulaski Township.**

Brian & Wendy Harding were present.

Amy Kowalzek entered into record Section 1301.34 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, variance application, background information questions, site plan, two aerial photos, staff report, box mound design page and photo of a box mound. There were 72 notices were sent to neighboring property owners. Three comments were received prior to the hearing. Amy entered the finding of fact and decision questions.

Dave Stish asked how long the applicants have owned the property and why the change from a holding tank to a full system. Wendy Harding stated that they purchased the property in 1990, we bought out the other owners and now would like to live here fulltime.

Bethy Jo Murphy stated she did complete a site visit on her own. No other board members visited the site.

Audience Comment: None

The voting sheets were polled.

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

- 3. Michael & Jami Ludens – 26713 Sycamore Rd; Hillman, MN 56338 – After-the-fact application for a Variance to continue additions onto non-conforming cabin and maintain more than 10 cubic yards of grade & fill within the shore impact zone; located in pt of Govt. Lot 4, Section 4, Township 42, Range 28, Richardson Township.**

Michael & Jami Ludens were present.

Amy Kowalzek entered into record Sections 301, 301.6(a), 706.1, 706.1A, 706.3, and 710.4 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, after the fact variance

application, background information questions, after the fact background information questions, site plan, two aerial photos, lake view photo, staff report, five pictures of the structure, impervious surface calculation sheet and aerial photo of building envelope, There were 72 notices were sent to neighboring property owners. Four comments were received prior to the hearing. Amy entered the finding of fact and decision questions and after the fact variance consideration questions.

Dave Stish asked about the unpermitted R.V. Can the R.V. be permitted. Amy Kowalzek stated that you may have a permitted R.V. on site with a cabin if the lot is of standard size or greater.

Bethy Jo Murphy stated she did complete a site visit on her own. No other board members visited the site.

Audience Comment:

Kurt Wall – stated that the wetland on the property is man-made and that the addition is smaller than the deck that had been removed from the front of the cabin.

The Board of Adjustment discussed the following at the public hearing:

- Property owner assumed permitting was not needed
- Desire to make living area larger is a personal preference
- There is a building envelope available on the property where the cabin could be moved to meet all setbacks, although wetland may make that available area smaller
- Encroachment on wetland more palatable than expansion of a structure within the shore impact zone
- The grading and filling activities will be completed through a permit

The voting sheets were polled.

A motion was made by Russ Nygren to deny After the Fact Variance request. The motion was seconded by Marvin Trettel. The vote was all in favor.

4. James & Jill Moore – 1528 Lincoln Hills Cir; Cushing, MN 56443 – After-the-fact application for a Variance to continue a deck larger than the previous deck and two patios within the shore impact zone; located in Lot 1 Blk1 of 1st Addition to Lincoln Hills, Section 31, Township 132, Range 31, Scandia Valley Township.

James & Jill Moore were present.

Amy Kowalzek entered into record Sections 706, 706.1A and 706.1D of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, after the fact variance application, background information questions, after the fact background information questions, site plan, four site photos, site plan, six site photos, two aerial photos, staff report, site plan #1, site plan #2, site plan #3, site plan #4, three site photos, impervious surface calculation sheet, aerial photo of building envelope, There were 90 notices were sent to neighboring property owners. Two comments were received prior to the hearing. Amy entered the finding of fact and decision questions and the after the fact variance consideration questions.

Jill Moore stated that the deck on the front of the cabin has been in place for years. The packet of information has a lot of inconsistencies. The original deck was only 11 feet from the ordinary high water mark. The old permit shows it to be 30 feet. The 11 feet was measured by Galen Gruber. The old permit does not show the deck correctly, the deck goes to the lake. We only raised up the deck and changed the shape to a rectangle. Our contractors told us that whole front of the cabin would need to be torn down. We got a different contractor that told us we could fix the original cabin and not tear it down. We thought we were within our permit to replace and change the deck.

The landscaping job was done by a local contractor. We never heard of terms like ordinary high water mark or shore impact zone. We paid \$30,000 to do the work and were never informed that we would be in violation. Galen Gruber came out and said we were in violation of the ordinance. I personally pulled back about 80% of what was originally done. We are only asking to keep about enough area to hold a patio table outside of the shore impact zone.

Bethy Jo Murphy stated she did complete a site visit on her own. No other board members visited the site.

Marvin Trettel asked what is in front of the deck now toward the lake. Jill Moore stated there is some rock around the trees and grass.

Russ Nygren asked if the new deck is made from concrete. Jill Moore stated it is not concrete it is maintenance free decking. We tried to replace things so that we would not have to replace it for many years to come.

Dave Stish asked Amy to re-read the SWCD comment. Amy Kowalzek read the comment.

Dave Stish stated that the property was purchased in 2015 and there was a permit taken out in 2016 to replace the front of the cabin. Jill Moore stated at that time they were not informed of the shore impact zone, the ordinary high water mark or the setback requirements. We decided not to replace but just to repair the cabin. Dave stated that replacement would have been better. Jill stated they were told they should tear down from the contractor, we did not want to tear it down and rebuild. We wanted to keep the originality of the cabin. The new deck is further from the lake and smaller than the old one. Jim Moore stated they had a permit to rebuild the deck and this is a separate issue from the patio. Amy Kowalzek stated a clarification of the deck. The stairs that lead down to the lake are not part of the deck.

BethyJo Murphy stated that she understands that there has been time and money spent to complete these projects. The landscaping project was not forthcoming with the rules and regulations. Part of the responsibility of what was done needs to fall on the property owner as well. In 2016 a permit was pulled to replace what was there as is was. The new deck is larger than the previous one. Jill Moore stated the permit in 2016 was based on tearing down the original cabin not specific to the deck. With the deck permit we were under the impression we were working within the spirit of the permit. We were not aware that the stairs were not part of the deck.

Russ Nygren stated the 1977 permit shows the deck on three sides of the cabin. Was the deck like this when the permit was pulled to replace it? Jill Moore stated the deck was there. Amy Kowalzek stated the current owners removed the previous deck. Russ asked if the property owners could have replaced the deck like in was shown in the 1977 sketch. Amy Kowalzek stated they could not have due to construction of the previous deck was not what was stated in the original permit, so it was not legally established.

Dave Stish stated in 2016 there was a permit application for a replacement of the deck and a portion of the structure. Was this still being done in 2019? Amy Kowalzek stated the previous owners got a deck permit in 1977 through a variance. In 2016 our office received another permit application that was granted. Our office was informed of the violation in 2019.

Audience Comment: None

The voting sheets were polled.

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

With no further business at hand, the hearing was closed at 10:05 p.m.

A motion was made by Russ Nygren to approve the February 4, 2020 minutes with one correction. The motion was seconded by Dave Stish. The vote was all in favor.

New business – Amy Kowalzek stated that since we have a large agenda for our June 2nd meeting, we would like to start the meeting at 5:30 p.m. The board was ok with this. We will continue to conduct the meetings via Webex for the time being.

Old business – Sharon Peterson stated that the per diems can be signed by the board members and sent back to the office to be processed.

A motion was made by Dave Stish to adjourn the meeting. The motion was seconded by Marvin Trettel. The vote was all in favor.

With no further business at hand, the hearing was closed at 10:15 p.m.

Respectfully submitted,

Amy Kowalzek, Secretary

Morrison County Board of Adjustment

BethJo Murphy, Chairperson

Morrison County Board of Adjustment

Dave Stish, Vice-Chairperson

Morrison County Board of Adjustment