

Morrison County Board of Adjustment  
Morrison County Government Center Board Room

Minutes

September 14, 2021

Dave Stish called the meeting of the Morrison County Board of Adjustment to order at 6:00 p.m.

Members Present: Dave Stish, Brent Lindgren, Dave Brutscher, Clint Katherine and Marvin Trettel.

Members Absent: None

Ex-Officio Members Present: Amy Kowalzek and Sharon Peterson

Ex-Officio Members Absent: Robert Wall

County Commissioners: Mike Wilson and Mike LeMieur

County Commissioners Absent: Jeff Jelinski, Greg Blaine and Randy Winscher

Other Members: None

Pledge of Allegiance

- 1. Troy & Rebecca Kapsner – 34126 Logan Ln; Hillman, MN 56338 – Re-convene application for an After the Fact Variance to continue a structure within the bluff and side property line setback; located in Lot 3 of Shady Rest-Sull Lake, Section 12, Township 42, Range 29, Pulaski Township.**

Troy & Rebecca Kapsner were present

Amy Kowalzek entered into record section 706.1 B & E of the Morrison County Land Use Ordinance, plat map with the parcel location, after the fact variance application, background information questions, after the fact background information question, site plan, bluff survey, two (2) aerial photos, ten (10) site photos, staff report, survey showing top of bluff and location of the shed, survey showing the building envelope and the impervious surface calculation sheet. There were 78 notices sent to neighboring property owners. One correspondence was received prior to the hearing. Amy entered the finding of fact and decision questions and the after the fact variance questions.

Troy Kapsner stated he could move the structure over but would wait to hear from the board on what they would like to see.

Brent Lindgren asked when the structure was started and when was it completed. Troy Kapsner stated about one year ago, maybe March of 2020. Looked it up online and thought since Covid was in effect I would get the permit later.

Marvin Trettel asked how large of a building can you build without a permit. Amy Kowalzek stated there is a size but will have to look it up in the ordinance.

Marvin Trettel stated that it seems like the only place on the property to place the shed would be where the drainfield is. Rebecca Kapsner stated that no excavation was done to place the shed where it is. Marvin asked if holes were dug. Troy Kapsner stated there was.

Audience Comment: None

The voting sheets were polled.

Dave Brutscher stated he would like to abstain from this application.

The board discussed the criteria questions that were answered in the negative.

A motion was made by Dave Stish to deny the Variance request. The motion was seconded by Brent Lindgren. The vote was three in favor and Marvin Trettel opposed.

**2. Paul & Judith Mott Rev Living Trust – 2514 Lake Shore Dr; Motley, MN 56466 – Application for a Variance to raise the height of the non-conforming garage; located in Lots 20, 21 & 22 of Shamineau Park; Section 17, Township 132, Range 31, Scandia Valley Township.**

Judith Mott was present via Microsoft Teams.

Amy Kowalzek entered into record Section 301, 301.6 and 706.1 of the Morrison County Land Use Control Ordinance, a plat map with the parcel location, variance application, background information questions, site plan, two (2) aerial photos, six (6) site photos, staff report, three (3) aerial photos showing the water levels through the years, land use permit, impervious surface calculation from the applicant, impervious surface calculation from the land services department and an aerial photo showing area where the garage could be moved. There were 175 notices sent to neighboring property owners. Two correspondence were received prior to the hearing. Amy entered the finding of fact and decision questions.

Judith Mott stated the original plat shows that the lot 275 feet deep. Currently with the lake level the lot is about 127 feet deep. Only requesting for the garage to go up 16”.

Dave Stish asked why this an expansion of a non-conforming structure. Amy Kowalzek stated this is due to the height of the structure. Dave Stish stated they could move the structure back 8’. Amy Kowalzek stated if they moved the structure back, they would not need a variance. Judith Mott stated this would not solve our problem. Dave stated you could still raise the height. Judith stated this would be more expensive.

Brent Lindgren asked if there is a slab under the garage. Judith Mott stated there is. We would be adding the two courses of block and adding a new floor as well.

Clint Kathrein asked where was the patio that was part of the impervious surface. Judith Mott stated it was along the house. It is no longer there due to the excavation. Dave Stish stated you may only replace what you had.

Dave Stish asked why not move the cabin back when you lifted the cabin. Judith Mott stated because this is where the foundation was, and it was part of the special ordinance.

Clint Kathrein asked what the information during the DRT meeting regarding stormwater. Amy Kowalzek stated the property owners stated their neighbors have raised their properties and this will cause water issues for us.

Audience Comment: None

The voting sheets were polled.

A motion was made by Marvin Trettel to approve the Variance request including one condition. The motion was seconded by Brent Lindgren. The vote was four in favor and Dave Stish opposed.

**3. Bruce Proell – 35954 Hoffman Beach Dr; Hillman, MN 56338 – Application for an After the Fact Variance to continue an overage of RV’s on two lots and allow 2 RVs to be within the setback of a wetland; located in Lots 1 & 2 of Hoffman Beach; Section 06, Township 42, Range 28, Richardson Township.**

Bruce Proell and Tom Hannon were present

Amy Kowalzek entered into record sections 708 and 1103 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, distance table for site plan, two (2) aerial photos, seven (7) site photos, staff report, a violation letter from 1990, violation letter from 2021, an e-mail from Amy Kowalzek, an aerial photo showing the properties and how many RV's that are allowed per parcel, aerial photo showing upland and wetland and the impervious surface calculation sheet. There were 67 notices sent to neighboring property owners. Three correspondence were received prior to the hearing. Amy entered the finding of fact and decision questions.

Tom Hannon stated they have a power point they have put together to summarize their request. Tom presented the power point.

Marvin Trettel asked if the septic is large enough to support the five RV's. Amy Kowalzek stated the updated system will be large enough. Marvin asked if there was any follow up after the letter was sent in 1980. Amy stated not that the office is able to find. Marvin stated that the Assessors office and the Planning & Zoning offices merged in 2017, does not seem like they communicated well. Amy stated it may have been that each office did not know how each other worked.

Clint Kathrein asked if there were wetland setbacks in 1993. Sharon Peterson stated there were. Amy Kowalzek stated there used to be a straight 75-foot setback. Clint asked if there was any information on file stating weather the RV's were legally established. Amy Kowalzek stated that nothing is on file for the RV's to be legally established. Clint asked how it was stated from the public that the septic was outdated. Amy stated that most things that are in our office is public information.

Dave Brutscher asked if it is possible to only allow the current owners to be allowed to have the RV's as a condition. Amy Kowalzek stated that would apply to Interim Use Permits not for Variances. There is not a mechanism to allow such a condition.

Audience Comment: None

Dave Stish stated that even though the property is over the required amount. There is a large area of wetland that is unusable. Now there is a filed septic that is very close to a wetland with five units going into it. Tom stated that the septic system is not failing it is operating just the same as it always has and how it was designed. Amy Kowalzek stated that the two types of failing systems are failing to protect ground water and imminent threat to public health. This system is failing to protect ground water by not having enough media for separation.

The voting sheets were polled.

A motion was made by Dave Stish to deny the Variance request. The motion was seconded by Dave Brutscher. The vote was three in favor and Marvin Trettel and Brent Lindgren opposed.

**4. David Bell – 5539 320<sup>th</sup> St; Cushing, MN 56443 – Application for an After the Fact Variance to continue a storage shed with living quarters, over the maximum height and size within the setback of a side property line; located in pt of Lot 2, Section 26, Township 132, Range 31, Scandia Valley Township.**

David Bell was present

Amy Kowalzek entered into record sections 706.2, 707.4 and 707.5 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, two (2) site plans, two (2) aerial photos, three (3) site photos, staff report, 2007 permit, VRBO ad, notice of violation, second notice of violation, impervious surface calculation from applicant and impervious surface completed by the Land

Services Department. There were 66 notices sent to neighboring property owners. Three correspondence was received prior to the hearing. Amy entered the finding of fact and decision questions and the after the fact criteria questions.

David Bell stated that the reason we are here is because of a complaint filed. This building has been here for 14 years, other County employees have been to the site and no one has ever said a thing about it. No one has ever had an issue with this building before.

David Bell stated there is a septate holding tank for the shed. Amy Kowalzek asked if the tank was installed at the same time as the building was constructed. David Bell said it was. Amy stated there is no design or permit for the septic tank.

Clint Kathrein asked how often the living quarters gets used. David Bell stated about 10% of the year. Clint asked how after 14 years did this get missed? Dave Stish stated that from driving by who would think that is was not in compliance. Clint asked if there are inspections to the buildings after they are constructed. Amy Kowalzek stated there are no inspections done after the construction, unless a complaint is files.

David Stish read the original permit application. David Bell stated he thought that the 18 feet was to the soffit not the peak of the building.

David Stish stated what does the new impervious surface calculation mean for this application. Amy Kowalzek stated it is now over the maximum amount of 25% impervious surface. Dave asked if the patio was permitted. Amy Kowalzek stated a permit on file for grade and fill showed the patio as existing.

Audience Comment:

Jim Jeziorski – neighbor he has no problem with the request. Structures like these are all over the area.

The voting sheets were polled for the height and size of the structure within the side property line setback.

A motion was made by Clint Kathrein to approve the Variance request. The motion was seconded by Dave Brutscher. The vote was all in favor. Clint made a motion not to go over the additional after the fact questions.

The voting sheets were polled to continue the living quarters within a shed on a non-conforming lot.

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

With no further business at hand, the hearing was closed at 10:14 p.m.

A motion was made by Dave Stish to approve the August 31, 2021minutes. The motion was seconded by Dave Brutscher. The vote was all in favor.

Correspondence -

New business – Marvin Trettel left the meeting at 9:52 p.m.

Old business –

A motion was made by Clint Kathrein to adjourn the meeting. The motion was seconded by Dave Brutscher. The vote was all in favor.

With no further business at hand, the hearing was closed at 10:17 p.m.

Respectfully submitted,

Dave Stish, Chairperson / Amy Kowalzek appointed Secretary  
Morrison County Board of Adjustment

Marvin Trettel, Vice-Chairperson  
Morrison County Board of Adjustment

Secretary, Clint Katherine  
Morrison County Board of Adjustment