

Minutes of the Todd County Board of Adjustment Meeting

April 28th, 2022

Completed by: Jamie Christenson, P&Z Staff

Site visit conducted by Adam Ossefoort and Bill Berscheit March 14, 2022 on the Ahlers site. Site visits conducted by Adam Ossefoort and Rick Johnson on April 21st, 2022 on the Mundahl and Owen sites.

Meeting attended by board members: Chair Rick Johnson, Mike Soukup, Danny Payton, Russ Vandenneuvel, Larry Bebus and Planning Commission Liaison Ken Hovet.

Staff members: Adam Ossefoort and Jamie Christenson

Other members of the public: Sign-in Sheet is available for viewing upon request.

Rick called the meeting to order at 6:00 p.m. Each board member introduced themselves and Rick explained the process for those attending.

Agenda approval motion made by Russ and seconded Danny. Voice vote, no dissent heard. Motion carried.

Danny motioned to have the March 24th, 2022 meeting minutes approved. Larry seconded the motion. Voice vote, no dissent heard. Motion carried.

AGENDA ITEM 1: Thomas Ahlers – PID 14-0034400 – Kandota Township

Applicant previously requested to table the application.

AGENDA ITEM 2: Cynthia L. Mudahl – PID 11-0062800 – Grey Eagle Township

Request(s):

1. Request to reduce the ordinary high water level setback from 100' to 50' in Shoreland-RD zoning (Big Birch Lake) for a new dwelling and attached garage.
2. Request to increase the maximum dwelling height for structures not meeting all setbacks from 18' to 30' 1" in Shoreland-RD zoning (Big Birch Lake) for a new dwelling and attached garage.

Cynthia was present as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Establishment of a 10' vegetated buffer along the shoreline. A path for dock access shall be allowed to be maintained.
2. Establishment of a stormwater retention system to account for 1188 square feet of impervious surface based on a 10 year/24 hour rainfall.
3. Maintain a minimum of 50% screening as viewed from the lake during leaf on conditions.
4. Applicant must obtain additional permitting as necessary from other governmental agencies including but not limited to the Sauk River Watershed District.

Cynthia confirmed the staff report was accurate. Cynthia stated the structure has to stay to the edge of the property due to the current septic system. Cynthia shared family history on the lake and interest in the lake quality. Cynthia stated trees currently standing will be removed due to storm damage and intends to replace. Cynthia stated her desire to move to the parcel permanently.

The site visit review was read out loud by Rick the on-site board member. The form is available for viewing upon request in the Planning & Zoning Office. Rick stated the proposed building was not flagged. Rick stated it appeared to be a slight slope away from the lake. Rick observed no current stormwater management systems on site. Rick observed the mature trees on site appeared to be at the end of their life. No alternative sites were observed due to the lot size. Rick noted the replacement of the cabin will not change the character of the area or affect the neighbors.

Correspondence received: Sauk River Watershed District submitted a written corresponded. It is available on file at the Planning & Zoning Office upon request.

Public comment: None.

Board discussion:

Russ asked how far the proposed structure is to the road. Adam stated there is a 35' platted public right of way on the privately maintained road from 1946.

Russ inquired what is present on the aerial. Discussion of the road and surrounding structures. Discussion of the current septic and the variance obtained previously to place the septic system within the parcel.

Rick asked what the setback is from the road. Adam stated the setback from the road is 35'. Cynthia provided a copy of the survey to the board for review. Discussion of needing the structure distance from the road right of way. Discussion of where the setback is measured from. Discussion of lot measurements and dimensions of proposed structure.

Rick stated the guiding principles is to ensure the granting of the most minimal distance. Discussion of determining the minimum distance and the road right of way setback.

Discussion of the current deteriorated condition of the existing structure. Discussion of the neighboring properties distance to the road.

Adam stated the options for the applicant are to table the request for more information/review or continue with the request as presented with the two requests. Discussion on the current septic system restraints with surrounding wells, property lines, ordinary high water level, and structures.

Russ inquired how far the proposed structure is from the septic. Cynthia stated the proposed structure is 10' from the septic.

Review of the options available for the applicant.

Discussion on needing the information on all measurements from property lines.

Rick stated the applicant is able to replace the existing nonconforming structure using the current footprint and a maximum height of 18'. Discussion of variance request of 50% deviation from the ordinance.

Rick recommended the applicant table the application and gather information on the road setback.

Larry ask if the applicant is within the minimum setback they are capped at 18'. Adam confirmed that is accurate.

Danny inquired on the square footage of the existing structure compared to the proposed structure so he can weigh his decision for the criteria questions. Cynthia stated the current structure is 26' x 31'. The proposed structure is 40' x 27'. Rick clarified the existing cabin size is 850 square feet with the request of the proposed cabin and garage of 1,152 square feet.

Russ inquired what the proposed structure's distance is from the side property line. Cynthia stated it is 10'.

Ken inquired what the height of the neighboring structures are. Rick stated there was typical large homes in the area. Cynthia stated the other neighboring structures are walk out basements and her proposed structure is a story and a half.

Rick inquired how the applicant will achieve a walkout basement. Cynthia stated there is a slope down to the lake that will need to be excavated for the damaged trees to be removed. She stated her builder suggested it would be possible to create a walk out basement.

Russ asked if there is any possibility to salvage the current trees. Cynthia stated it is not possible with the tree age, hollow center, and damage. Rick confirmed.

Applicant requested to table the application to gather more information.

Ken motioned to table, Mike seconded. Voice vote commenced, no dissent heard. Motion carried.

AGENDA ITEM 3: Michael Owen & Talia Landucci Owen – PID 11-0070900 – Grey Eagle Township

Request(s):

1. Request to reduce the ordinary high water level setback from 100' to 38' in Shoreland-RD zoning (Mound Lake) for a deck replacement.

Michael was present as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Establishment of a 10' vegetated buffer along the shoreline. A path for dock access shall be allowed to be maintained.

2. Establishment of a stormwater retention system to account for 384 square feet of impervious surface based on a 10 year/24 hour rainfall.
3. Applicant must obtain additional permitting as necessary from other governmental agencies.

Michael confirmed the staff report was accurate. Michael stated due to the frost heave it is a foot and a half higher in places. Michael stated there is foundation issues with the home. Michael stated the pipe is on the neighbor's property. He stated their request is to reduce the square footage of the deck to make it a more useable space. Michael stated there was a tree the deck was built around and has since deteriorated and been removed. Michael stated his proposal will reduce the setback to the side lot.

Correspondence received: none.

Public comment: none.

The site was reviewed by Rick, the on-site board member. Rick stated they measured the deck during the visit. Rick stated there didn't appear to be any erosion around the house, however, there is sandbag pipe along the driveway. Michael explained the driveway settled and slopes toward the house. Rick stated he observed a drainpipe by the shoreline that daylighted. He stated it was 10-12" in diameter and had a significant amount of water coming out of it. Rick stated they heard water running when they were on the deck and discovered the culvert's open spot. The culvert daylighted off the lot, however, it sounded as it goes through the parcel. Rick noted there are mature trees on the parcel. There is no alternate site. The proposal will retain the character of the locality. Unique circumstances: none, other than the small lot. No effects on the neighbors.

Board discussion:

Russ asked what the amount of the impervious surface on the property. Adam stated the application does not have that stated, however, the proposal will reduce the impervious surface totals by 1%.

Danny stated this proposal will solve a frost issue, reduce the setback from the lake, and reducing impervious surface by 1%.

Mike stated there would also be a 1 foot gain from the side setback.

Rick inquired if there is an option to replace the deck. Adam stated it is an option. Michael stated due to the shape of the deck he wasn't interested an exact replacement.

Rick stated the applicant is making improvements to the property by moving back, capturing stormwater. Rick stated he doesn't see any adverse effects and only see positives.

Ken stated he thinks this application will allow everyone to gain by granting the variance.

Rick stated he doesn't see a deck having any sightline issues from the lake.

Danny asked if there is 50% screening on the structure. Adam stated he didn't feel it was relative to the request to add a screening condition. Rick stated he agreed.

Rick stated in the statement of reasonableness there is minimal concern about decks and the line of sight.

Russ motioned to approve, Ken seconded with the proposed conditions as presented. Russ requested to withdraw the motion to review criteria questions first.

Rick called for Criteria Questions to be addressed.

| Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control? | |
|---|---|
| Board Member | Vote and Comments |
| Russ | Yes |
| Rick | Yes, the variance is an improvement from doing an exact for exact replacement and the sight view is a none issue. |
| Mike | Yes |
| Danny | Yes |
| Ken | Yes |
| Larry | Yes |

Majority response- "Yes".

| Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan? | |
|--|--|
| Board Member | Vote and Comments |
| Rick | Yes, the applicant is trying to help further protect the natural resources. |
| Ken | Yes, the proposal will improve the structure's compliance with the ordinances. |
| Russ | Yes, he is making an improvement. |
| Larry | Yes |
| Danny | Yes |
| Mike | Yes |

Majority response- "Yes".

| Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control? | |
|---|-------------------------------|
| Board Member | Vote and Comments |
| Mike | Yes |
| Russ | Yes, very reasonable. |
| Rick | Yes, very reasonable request. |
| Ken | Yes |
| Danny | Yes |
| Larry | Yes |

Majority response- "Yes".

| Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner? | |
|---|--|
| Board Member | Vote and Comments |
| Larry | Yes, it's not something that was created but trying to improve it. |

| | |
|-------|--|
| Mike | Yes, due to the nature of weather on the deck. |
| Danny | Yes |
| Russ | Yes |
| Rick | Yes, not created by the landowner. |
| Ken | Yes |

Majority response- "Yes".

| Criteria Question #5: Will the variance maintain the essential character of the locality? | |
|--|---|
| Board Member | Vote and Comments |
| Ken | Yes, don't believe it will change the appears at all. |
| Danny | Yes, smaller footprint so it will be improved. |
| Rick | Yes, no change. |
| Mike | Yes |
| Russ | Yes, will be maintained. |
| Larry | Yes |

Majority response- "Yes".

| Criteria Question #6: Does the need for the variance involve more than just economic considerations? | |
|---|---|
| Board Member | Vote and Comments |
| Mike | Yes, due to the deterioration nature of the effects on the deck. |
| Ken | Yes, it doesn't involve environmental but it is a positive improvement. |
| Danny | Yes, safety and environmental concerns. |
| Rick | Yes, same reasons. |
| Russ | Yes, same reasons. |
| Larry | Yes, same reasons. |

Majority response- "Yes".

| Criteria Question #7: Have safety and environmental concerns been adequately addressed? | |
|--|--|
| Board Member | Vote and Comments |
| Danny | Yes |
| Rick | Yes, with working with a landscaper for gutter placement and landscaping and the variance will have no adverse effects on the environment. |
| Larry | Yes |
| Mike | Yes |
| Ken | Yes |
| Russ | Yes |

Majority response- "Yes".

Summary of criteria question majority responses as follows:

| | |
|----|-----|
| #1 | Yes |
| #2 | Yes |
| #3 | Yes |
| #4 | Yes |
| #5 | Yes |
| #6 | Yes |
| #7 | Yes |

Russ made a motion to approve request, seconded by Ken with the three proposed conditions.

Conditions:

1. Establishment of a 10' vegetated buffer along the shoreline. A path for dock access shall be allowed to be maintained.
2. Establishment of a stormwater retention system to account for 384 square feet of impervious surface based on a 10 year/24 hour rainfall.
3. Applicant must obtain additional permitting as necessary from other governmental agencies.

Rick requested a roll call vote to the motion to grant the variance.

| Board Member | Vote to the motion to deny the request |
|--------------|--|
| Mike | Yes |
| Ken | Yes |
| Larry | Yes |
| Russ | Yes |
| Danny | Yes |
| Rick | Yes |

Motion carries and appeal for a variance granted.

Danny motioned to adjourn and Mike seconded. Voice vote to adjourn. No dissention heard. Motion carried and meeting adjourned at 7:24 PM.