

## Minutes of the Todd County Board of Adjustment Meeting

October 30<sup>th</sup>, 2023

Completed by: Sue Bertrand P&Z Staff

Site Visits conducted by Adam Ossefoort and Ken Hovet on October 18th, 2023.

Meeting attended by board members: Vice Chair Bill Berscheid, Mike Soukup, Russ Vandenneuvel, Larry Bebus and Planning Commission Liaison Ken Hovet.

Staff members: Adam Ossefoort and Sue Bertrand

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

Bill called the meeting to order at 6:00 p.m. and started with the Pledge of Allegiance. He then explained the meeting process for those attending, followed board introductions.

Ken motioned to have the August 24<sup>th</sup>, 2023 meeting minutes approved. Russ seconded the motion. Voice vote, no dissent heard. Motion carried.

### **AGENDA ITEM 1: Paul & Denise Atkinson: – PID 11-0072300 – Grey Eagle Township**

Request(s):

1. Variance request to reduce the road right-of-way setback from 20' to 10' for the proposed 20' x 26' garage in Recreational Development Shoreland Zoning.
2. Variance request to reduce the side yard property line setback from 10' to 0' for the proposed 20' x 26' garage in Recreational Development Shoreland Zoning.

Paul and Denise were present as the applicants.

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. No portion of the proposed garage shall encroach across the property line.
2. All stormwater shall be collected from the roof and stored in a manner to not impact neighboring property nor create any erosion.
3. A storm water management plan shall be created and submitted to Planning and Zoning prior to issuance of the land use permit.

Paul confirmed the staff report was accurate.

Ken went through his site report and this is available for review in the Planning and Zoning office upon request.

Correspondence received: Yes. From Robert R. Manning, and this letter may be viewed in full in the Planning and Zoning office upon request.

Public comment: None

Board discussion:

Russ stated he noticed we had granted a couple of variances previously and asked how long the Atkinsons have owned the house, and were they the ones who got those variances?

Paul and Denise stated since this July and no, they were the previous owners' variances.

Bill asked Adam if he could put up the topographic overview of the lot, which he did, and stated that is a lot of what we will be talking about here tonight. Bill asked, in regards to the road right of way, are we clear on where that is and do we have survey markers there?

Adam stated the previous owners surveyed it. He added the applicants do not have a paper survey, however, they located the actual corners of the property and showed the board the actual survey stake from the surveyor in one of the photos on the overhead.

Bill stated he is familiar with that area and that portion of the lake and as Ken mentioned, there are numerous instances where the road right of way either encroaches in the peoples lots or their structures are encroaching into the road right of way. He stated it actually works both ways.

Mike had a question on the orientation of the garage. He asked how the roof is going to be orientated next to the zero-lot line? He asked if the water will be running off into that neighbors' yard?

Paul stated no, they will be putting rain gutters and a downspout with a rain barrel so it will minimize any... He stated right now, there's a shed on the property line and it would match that.

Mike asked if that was in a picture.

Handouts were given to the board members from the applicants.

Paul stated the intent would be for the majority of any rain water to be coming forward and he stated they will provide rain gardens, rain barrels and rain gutters.

Mike asked what kind of roof, would it be steel or shingles?

Paul stated shingles.

Bill asked Ken if there was any erosion that he noticed. Ken stated the only erosion he noticed was in the road right of way. He stated he walked down the road and looked down the lot to the lake and noticed all-natural vegetation and didn't see anything erosion wise. The erosion he did see, up by the road, was minimal.

Larry asked about Cottontail Drive if it is a private road or public road, how often does it get used? He stated the road right of way setback is 20' and you want to go 10' away, what's going to happen in the winter during snowplow season?

Paul stated it is a public road, privately maintained. Denise added there is no snowplow, only the neighbors that plow them out. One neighbor, to the East of them, that maintains the road in the winter and they have talked to them on how he plows the snow and where he piles it.

Denise pointed out on the drawing, they listed ten feet, but because the lot is at an angle, then it goes up and at that point it goes to 16.3' and is just that one section it is as close as 10' because of the drain field, there is no room to shift the structure.

Russ said you will be driving off of Cottontail drive, to the garage, will there be enough room outside the garage to park your vehicle?

Denise stated just on the one side where the setback is at 16'.

Russ asked if there is anybody past you?

Paul said up the hill there is a VRBO and the neighbor who live there year-round and a couple cottages. Denise added there are no people across the road.

Russ asked even at 16.3 feet you wouldn't be able to park a vehicle, would you?

Denise stated, she suspects that if it was just them, they would park in front of the garage. The reason that they wanted to come in from Cottontail is if the entrance were on the side, they would need quite a bit more of a variance from the neighbor to enter the garage. The most suitable entrance is the proposed.

Russ asked if there will be a concrete apron.

Denise stated if possible, they would like to have an apron, and they know they have to put a metal stripping for the water to run underneath, but is not sure what they will put underneath. They have no intention to tar or concrete the driveway.

Larry asked if you would direct the water to rain gardens from underneath?

Denise answered yes, they have rain gardens by the drain field.

Larry asked how far over could you go, for parking in the open area (Paul was pointing to the overhead view of the lot) and said that towards the drain field is about 25-30 ft.

Denise stated the width of the garage is 24 ft. and she suspected it wasn't much more to the drain-field from there. She also added in the event they needed extra parking area, this is an unusual road, truly is not maintained well, across the street, because the road is so narrow, there is a huge easement there. People park there. She stated if it were an emergency, there would be parking across the street. People park boats and trailers and everything if you go further down. In the cities, it would be like parking on the side of the street, but here it would be parking across the street, in the easement.

Bill agreed, and stated he has been up and down that road a lot and that is the norm. In the summer, people park right on the edge of the road, as there is very limited parking space. If there are structures and garages they are very tight up to the road right of way, not advocating for or against it, just stating the way it is. What they are proposing to do is consistent with the rest of the neighborhood.

Larry questioned Bill if you could get two emergency vehicles in there if you had to?

Bill mentioned he does not remember having an issue with getting emergency vehicles in and out of there with the exception for topography and ice. As far as parking and vehicles, he does not recall that ever being an issue. It gets very steep and very slippery is what he recalls as an issue. There are other hurdles but parking has not been the issue.

Larry added so the road width is not an issue.

Bill stated no, but that may change if a two-tier development comes in across the street. If that happens it goes to the Zoning board and would be addressed there and figure out some way to deal with it. At this point there is very limited two-tier development so most of that is, as Denise mentioned, open area, even though it may not be theirs to use, it is used.

Denise stated across the street from them, the road is narrow, recently, the people that own up on the hill across the street from them, they had their lot surveyed, and you can see the survey lines way up on the hill. She stated it used to be an old ski resort, and they put up a snow fence. You can see the survey posts and you can see it is quite a distance away, probably 100'.

Ken asked how wide the road easement is, to which Adam answered 66'. Adam also showed the original plat of the area showing a 66' ROW.

Bill added he would assume if there was a development across the street it would be addressed at that time and widen it and actually conform with the boundaries.

Bill called for Criteria Questions individually by request.

<b>Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes
Ken Hovet	Yes
Larry Bebus	Yes, will agree.
Mike Soukup	Yes
Bill Berscheit	Yes

Majority response- Yes

<b>Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes

Ken Hovet	Yes
Larry Bebus	Yes
Mike Soukup	Yes
Bill Berscheit	Yes

Majority response-Yes

<b>Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes
Ken Hovet	Yes
Larry Bebus	Yes
Mike Soukup	Yes
Bill Berscheit	Yes

Majority response- Yes

<b>Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes
Ken Hovet	Yes, for all of the same reasons.
Larry Bebus	Yes, agrees with everyone.
Mike Soukup	Yes
Bill Berscheit	Yes, topography is a big factor here. If it were not for the topography, and not just of this lot but topography across the board on this South side of Mound Lake, if it were not for the topography there would be other buildable space on this lot.

Majority response- Yes

<b>Criteria Question #5: Will the variance maintain the essential character of the locality?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes
Ken Hovet	Yes
Larry Bebus	Yes
Mike Soukup	YEs
Bill Berscheit	Yes, there are already cabins and garages tight up against the road or road right of way and having been in and out of there, this is nothing out of the norm for what is there.

Majority response- Yes

<b>Criteria Question #6: Does the need for the variance involve more than just economic considerations?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes
Ken Hovet	Yes
Larry Bebus	Yes
Mike Soukup	Yes
Bill Berscheit	Yes

Majority response- Yes

<b>Criteria Question #7: Have safety and environmental concerns been adequately addressed?</b>	
<b>Board Member</b>	<b>Vote and Comments</b>
Russ Vandenheuvel	Yes, agrees with all of the stated reasons.

Ken Hovet	Yes, for all of the same reasons.
Larry Bebus	Yes, he agrees with what has been said. The rain barrels, from what he has seen, you get a half inch rain and everything runs off into the rain barrel, it's going to overflow in about an hour. You are going to need to put them on there. He thought an underground trough or whatever you are going to do to get it to the rain garden is a good idea.
Mike Soukup	Yes, stated he agrees with the rain gutters being able to do something with the water run-off from that roof.
Bill Berscheit	Yes, his biggest concern in regards to safety and environmental concerns is not the road, as this is consistent with the area, it is more being tight to the lot line with your neighbor, and being able to maintain runoff or deal with the run off from the garage, is his biggest concern and erosion is a huge issue on that side of Mound Lake. They mentioned there will be gutters and rain barrels done. Bill stated he would anticipate that perhaps this could be added as some type of condition: there be treatment for all of the roof water coming off of this garage.

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

Bill asked if we wanted to discuss conditions at all, before we vote? He stated he noticed Adam added one and read the two conditions so far:

1. No portion of the proposed garage shall encroach across the property line.
2. All storm water shall be collected from the roof and stored in a manner to not impact neighboring property nor create any erosion.

Bill added, so having said that (stated he liked that condition) you may want to do some math on the amount of water you are going to pull off. It may require a larger barrel than you anticipate, or you may need to go to something like a rain garden or something like that.

Denise stated the shed that is there does not have one either. She stated they are well aware that they have to get one on the shed. Stated they are also going to have to get one on the garage. If they get to move forward, they are going to have one that is a little bit bigger and have it up off the ground. Stated sometimes when they get too full (they researched it) they found when they are off the ground, they drain down a little bit easier. It eliminates the overflow.

Bill stated he is going to add one condition: That they put together their storm water management plan, being they are covering the other building as well, and present it to staff prior to pulling a permit, and asked them if that was okay.

Paul and Denise said sure, and asked if it had to be a professional company or one that we have already put together.

Bill stated whatever they draw together.

Proposed conditions:

1. No portion of the proposed garage shall encroach across the property line.
2. All stormwater shall be collected from the roof and stored in a manner to not impact neighboring property nor create any erosion.
3. A storm water management plan shall be created and submitted to Planning and Zoning prior to issuance of the land use permit.

Russ made a motion to grant the variance. Ken seconded, voice vote, no dissent heard, motion carried.

Ken motioned to adjourn and Larry seconded. Voice vote to adjourn. No dissention heard. Motion carried and the meeting adjourned at 6:34 PM.